

**Notice to Offerors**

**Request for Proposals**

**# 1005672**

**Residential Refuse, Recyclable Materials, Yard Trim, and Scrap Metal Collection Services**

**Service Area 3**

This solicitation may be subject to the County's Wage Requirements law for service contracts. If this solicitation is subject to that law, then the appropriate space will be marked in the box denoting "This is a Services Contract", at the bottom of the next page (page 1). And, in this event, the "Wage Requirements for Services Contract Addendum" (Attachment "G") should be attached.

If this solicitation is subject to the Wage Requirements law (see above explanation), then the "Wage Requirements Certification" and, if applicable, the "501(c)(3) Nonprofit Organization's Employee's Wage and Health Insurance Form" (see Attachment "G"), must be completed and submitted with your proposal. If you fail to submit and complete the required material information on the form(s), your proposal may be unacceptable under County law and may be rejected.

As noted in Attachment "G" (Section A, Wage Requirements Compliance), a contractor required to comply with the Wage Requirements Law must quarterly (January, April, July, and October for the prior quarter) submit certified payroll records for all employees, and any subcontractors, governed by the Wage Requirements Law, for each payroll period to the Office of Business Relations and Compliance, Attn: Wage Program Manager. These payroll records must include the following for each employee and any subcontractors: name; address; position/title; daily straight time hours worked; daily overtime hours worked; straight time hourly pay rate; overtime hourly pay rate; any deduction for health insurance; total gross wages paid for each period; and total net wages paid after any additions and deductions for each pay period.

Please note the information pertaining to the Wage Requirements law is on Attachment "G". Please note for services contracts, you can find the current mandatory wage rate, per hour, payable to employees under Section 11B-33A of the County Code, by going to the website ([www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)), and clicking on "Departments," "General Services," "Office of Procurement," and then "Living Wage." . Also, the Wage Requirements law ("Living Wage") is available at the same website.



## **REQUEST FOR PROPOSALS**

RFP# 1005672

Residential Refuse, Recyclable Materials, Yard Trim,  
and Scrap Metal Collection Services  
Service Area 3  
June 22, 2011

Montgomery County, Maryland is soliciting proposals for the provision of the above-referenced goods/services as outlined in this document.

Each offeror must submit one proposal for the provision of residential refuse, bulk waste, recyclable material, yard trim, and scrap metal collection services from approximately 14,360 dwelling units, with all collection and supervisors' vehicles powered with compressed natural gas (CNG); and

One original and four (4) copies of your proposal must be submitted in a sealed envelope/package no later than 3 p.m. on July 21, 2011 to the Department of General Services, Office of Procurement, Rockville Center, 255 Rockville Pike, Suite 180, Rockville, Maryland 20850-4166. The sealed proposal package must be clearly marked with the solicitation number, due date, and due time.

There will be an optional pre-submission conference at 2:00 p.m. on July 8, 2011 at the Executive Office Building Auditorium, 101 Monroe St., Rockville, MD 20850.

The County will not accept fax proposals or proposals sent via e-mail. All faxed or e-mailed proposals will be returned.

Each offeror is encouraged to visit Service Area 3 in order to become familiar with the actual site conditions. Route visits may be arranged by calling Joe O'Donnell at (240) 777-6404.

Should you have any questions regarding the technical information or the scope of services contained in this solicitation, please contact Robin D. Ennis, Chief, Collections, Division of Solid Waste Services) at (240) 777-6401.

Should you have any questions regarding procurement information (i.e., terms and conditions) contained in this solicitation, please contact Robert Norris, Procurement Specialist at (240) 777-9926.

<b>This is a Services Contract (see Section A, Services Contract):</b>
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<b>X</b>
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David E. Dise, Director  
Department of General Services

Revised 08/10

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Montgomery County, Maryland  
Acknowledgment Page

ACKNOWLEDGMENT

The offeror must include a signed acknowledgment that all the terms and conditions of the offer may, at the County's option, be made applicable in any contract issued as a result of this solicitation. Offers that do not include such an acknowledgment may be rejected. Executing and returning (with the offer) the acknowledgment shown below will satisfy this requirement.

The undersigned agrees that all the terms and conditions of this solicitation and offer may, at the County's option, be made applicable in any contract issued as a result of this solicitation.

Business Firm's Typed Name: \_\_\_\_\_

Printed Name and Title of  
Person Authorized to Sign Proposal: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

NAME AND SIGNATURE REQUIREMENTS FOR PROPOSALS AND CONTRACTS

The correct legal business name of the offeror must be used in all contracts. A trade name (i.e., a shortened or different name under which the firm does business) must not be used when the legal name is different. Corporations must have names that comply with State Law. The offeror's signature must conform to the following:

All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of this offer or a contract is a representation by the person signing that the person signing is authorized to do so on behalf of the offeror or contractor.

By submitting a proposal under this Solicitation, the Offeror agrees that Montgomery County has within 120 days after the due date in order to accept the proposal.

ACKNOWLEDGMENT OF SOLICITATION AMENDMENTS

The Offeror acknowledges receipt of the following amendment(s) to the solicitation:

Amendment Number

Date


**SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES**

The following provisions are applicable to this solicitation:

**SECTION A – INSTRUCTIONS, CONDITIONS AND NOTICES****1. ACCEPTANCE TIME**

By submitting a proposal under this solicitation, the offeror agrees that Montgomery County has within 120 days after the due date in order to accept the proposal. Montgomery County reserves the right to reject, as unacceptable, any offer that specifies less than 120 days of acceptance time. Upon mutual agreement between the County and the offeror, the acceptance time for the offeror's proposal may be extended.

**2. ACKNOWLEDGMENT**

The offeror is to include the signed acknowledgment (Page 4) indicating agreement with all the terms and conditions of the solicitation.

**3. CONTRACT DOCUMENTS**

The following documents will be incorporated into the contract resulting from this solicitation:

1. General Conditions of Contract Between County & Contractor.
2. Minority Business Program & Offeror's Representation.
3. Minority-Owned Business Addendum to the General Conditions of Contract Between County & Contractor.
4. Minority, Female, Disabled Person Subcontractor Performance Plan.
5. Offeror's Certification of Cost & Price (for contracts above \$100,000)
6. Wage Requirements for Services Addendum and Wage Requirements Certification
7. All representations and certifications listed in this document.

**4. DETERMINATION OF RESPONSIBILITY**

The Offeror has the burden of demonstrating affirmatively its responsibility in connection with this solicitation. A debarred potential offeror must automatically be considered non-responsible in connection with this solicitation. The County reserves the right to consider an offeror non-responsible who has previously failed to perform properly or to complete, in a timely manner, contracts of a similar nature, or if investigation shows the offeror unable to perform the requirements of the contract.

An offeror may be requested at any time by the Director, Department of General Services or the Using Department to provide additional information, references and other documentation and information that relate to the determination of responsibility. Failure of an offeror to furnish requested information may constitute grounds for a finding of non-responsibility of the prospective offeror.

The Director may deny the award, renewal, or assignment of a contract to or for any offeror who is in default of payment of any money due the County.

The factors, which may be considered in connection with a determination of responsibility, include:

1. The ability, capacity, organization, facilities, and skill of the offeror to perform the contract or provide the goods or services required;
2. The ability of the offeror to perform the contract or provide the services within the time specified without delay, interruption or interference;
3. The integrity, reputation, and experience of the offeror, and its key personnel;
4. The quality of performance of previous contracts or services for the County or other entities. Past unsatisfactory performance, for any reason, is sufficient to justify a finding of non-responsibility;

## SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)

5. The previous and existing compliance by the offeror with laws and ordinances relating to the contract or services;
6. The sufficiency of financial resources of the offeror to perform the contract or provide the services;
7. The certification of an appropriate accounting system, if required by the contract type;
8. A bid bond and the offeror's evidence of ability to furnish a performance bond may be considered evidence of responsibility; and
9. Past debarment by the County or other entity.

**5. JOINT PROCUREMENT**

The following entities within Montgomery County must be able to purchase directly from any contract resulting from this Solicitation:

Maryland-National Capital Park & Planning Commission (M-NCPPC)  
 Montgomery College (MC)  
 Montgomery County Public Schools (MCPS)  
 Montgomery County Revenue Authority  
 Montgomery County Housing Opportunities Commission (HOC)  
 Washington Suburban Sanitary Commission (WSSC)  
 Municipalities & Special Tax Districts in Montgomery County

While this solicitation is prepared on behalf of Montgomery County, it is intended to apply for the benefit of the above-named entities as though they were expressly named throughout the document. Each of these entities may purchase from the successful offeror under the same prices and services of the contract with Montgomery County, in accordance with each entity's respective laws and regulations, or an entity may choose not to procure from the successful offeror at the entity's sole discretion. If one of the above-named entities elects to purchase under the contract, the price shall be determined by using unit costs and other pertinent costs that are provided in the offer. Montgomery County shall not be held liable for any costs, payments, or damages incurred by the above jurisdictions.

**6. LATE PROPOSALS**

Responses to this Solicitation received after the date and time specified in a solicitation are considered late and may not, under any circumstances, be considered for any award resulting from the solicitation.

**7. MINORITY, FEMALE, DISABLED PERSON PROGRAM COMPLIANCE**

Under County law, this solicitation is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program. Further information regarding the County's MFD program is contained within this solicitation (see the attachment entitled "Minority-Owned Business Addendum to the General Conditions of Contract Between County and Contractor" and its companion document entitled "Minority, Female, Disabled Person Subcontractor Performance Plan").

**8. MONTGOMERY COUNTY CODE AND PROCUREMENT REGULATIONS**

The Montgomery County Code and the Montgomery County Procurement Regulations are applicable to this solicitation and any contract awarded pursuant to this solicitation.

**9. OPTIONAL PRE-SUBMISSION CONFERENCE**

If a Pre-Submission Conference is held, it is optional, though highly recommended that prospective offerors attend this pre-submission conference. For information regarding the date, time, and place of the conference, please see page 1 of this solicitation.

## SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)

10. PAYMENT TERMS

The County's payment terms are net thirty (30) days.

11. PROPOSALS

Sealed proposals are due in the Office of Procurement, 255 Rockville Pike, Suite 180, Rockville MD 20850-4166, for the purchase of supplies, material, equipment and/or services in accordance with the instructions, terms, conditions and specifications and/or scope of services set forth in this solicitation. Proposals must be returned in a sealed envelope, and clearly marked with the RFP number, due date, and time. Proposals received after the time specified will be returned unopened to the offeror. The County will not be responsible for proposals received after the due date, due to premature or late deliveries, postal/courier delays, or opening of a proposal if it is improperly addressed or identified.

12. PROPOSAL WITHDRAWAL/MODIFICATION

Proposals may be withdrawn or may be modified by the offeror upon receipt of a written request received before the time specified for due date and due time. Requests to withdraw or modify an offeror's proposal received after the solicitation due date and time will not be considered.

13. PROPRIETARY & CONFIDENTIAL INFORMATION

This is to notify prospective offerors that the County has unlimited data rights regarding proposals submitted in response to its solicitations. Unlimited data rights mean that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by offerors in response to this or any solicitation issued by the County. However, information that is deemed to be confidential commercial or financial information as defined by the Maryland Information Act, State Government Article 10-617, will be exempted from disclosure if the submitter can show that release of such information would cause substantial competitive harm to the submitter's competitive position. It is the responsibility of the offeror to clearly identify each part of his/her offer that is confidential commercial or financial information by stamping the bottom right-hand corner of each pertinent page with one inch bold face letters stating the words "confidential" or "proprietary." The offeror agrees that any portion of the proposal that is not stamped as proprietary or confidential will be deemed not to be proprietary or confidential.

14. PROTESTS

All protests made pursuant to this solicitation must be in writing and delivered to the Director, Department of General Services: (a) within ten (10) days after the Director, Department of General Services, publicly posts the proposed award, if the offeror seeks as a remedy the award of the contract or costs under 11B-36(h) of the Montgomery County Code, or (b) before the submission date for proposals, if the offeror seeks as a remedy the cancellation or amendment of the solicitation. Each protest must contain a protest filing fee in the amount of \$500 (US currency); if the fee is paid by check, then the check must be made out to Montgomery County Government. The Director, Department of General Services, may return the filing fee to the protesting offeror, if the protest is sustained. The Director, Department of General Services, must dismiss any protest not timely received.

Only an offeror who is "aggrieved" may file a protest. Aggrieved means that the offeror who is filing the protest may be eligible for an award of the contract if the protest is sustained (e.g., a fourth ranked offeror is not aggrieved unless the grounds for a protest, if sustained, would disqualify the top three ranked offerors or would require that the solicitation be reissued).



## SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)

Each protest must contain the following: identification of the solicitation; the name, address and telephone number of the protesting offeror; a statement supporting that the offeror is aggrieved; and specification of all grounds for the protest, including submission of detailed facts and all relevant documents, citation to relevant language in the solicitation, regulations, or law relied upon; and, all other matters which the offeror contends supports the protest. The burden of production of all relevant evidence, data and documents, and the burden of persuasion, to support the protest is on the offeror making the protest.

**15. PUBLIC POSTING**

It is the responsibility of the offerors to keep informed of the current status of any proposed awardee for contracts in which they are interested as per Section 3.2.2 of the Procurement Regulations.

Of particular importance is the fact that the notice of a decision to make an award will be accomplished by a public posting of the proposed awardee

Information regarding the proposed awardee(s) under this solicitation or any solicitation issued by the Montgomery County Office of Procurement will be posted on Montgomery County's website at: [www.montgomerycountymd.gov/content/DGS/pro/publicawards.asp](http://www.montgomerycountymd.gov/content/DGS/pro/publicawards.asp).

**16. QUALIFICATION OF OFFERORS**

Offerors may be required to furnish satisfactory evidence that they are qualified and regularly engaged in performing the services for which they are submitting a proposal and maintain a regularly established place of business. An authorized representative of the County may visit any prospective contractor's plant, place of business or place where the services are performed to determine ability, capacity, reliability, financial stability and other factors necessary to perform the contract. If so requested, an offeror may be required to submit information about its reputation, past performance, business and financial capability and other factors that demonstrate that the offeror is capable of satisfying the County's needs and requirements for a specific contract.

**17. QUESTIONS**

All technical and nontechnical questions pertaining to this solicitation should be directed to the individuals whose names are indicated on Page 1.

**18. SERVICES CONTRACT (County Code 11B-33A)**

Under County law, a solicitation for a contractor to provide services is subject to the Montgomery County Code regarding compliance with certain wage requirements payable to the Contractor's employees. Additional information regarding the County's wage requirements is contained within this solicitation (see the provision entitled "Wage Requirements for Services Contracts Addendum to The General Conditions of Contract between County and Contractor" and its companion document entitled "Wage Requirements Certification"). If Contractor fails to submit and complete the required material information on the Wage Requirements Certification form, its proposal may be deemed unacceptable under County law and may be rejected.

**19. SOLICITATION AMENDMENTS**

In the event that an amendment to this solicitation is issued, all solicitation terms and conditions will remain in effect unless they are specifically changed by the amendment. Offerors are responsible for checking the website at [http://www.montgomerycountymd.gov/content/DGS/PRO/public\\_solicitations.asp](http://www.montgomerycountymd.gov/content/DGS/PRO/public_solicitations.asp) periodically to remain informed of any solicitation amendments. Offerors must acknowledge receipt of such solicitation amendments, to the place designated, and prior to the hour and date specified in the solicitation (or as amended) for receipt of offers. Offerors may acknowledge solicitation amendments by one of the following:

SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES (continued)

1. By returning one signed copy of the amendment either with the Offeror's response to the solicitation or by sending a signed copy of the amendment separately to the Office of Procurement.
2. By acknowledging receipt of the amendment on the Acknowledgment (see page 4) submitted.
3. By stating that the amendment is acknowledged in a signed letter that refers to the solicitation and amendment numbers.

20. SOLICITATION PREPARATION EXPENSES

All costs incurred in the preparation and submission of solicitations will be borne by the offeror and shall not be incurred in anticipation of receiving reimbursement from the County.

21. VERBAL EXPLANATIONS

Verbal explanations or instructions given by a Montgomery County employee to an offeror in regard to this solicitation will not be binding on the County. Any information given to an offeror in response to a request will be furnished to all offerors as an amendment to this solicitation, if such information is deemed necessary for the preparation of solicitations, or if the lack of such information would be detrimental to the uninformed offerors. Such amendments only, when issued by the Director, Department of General Services, will be considered as being binding on the County.

END SECTION A - INSTRUCTIONS, CONDITIONS AND NOTICES

**SECTION B - GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR****1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION**

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

**2. AMERICANS WITH DISABILITIES ACT**

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq.

**3. APPLICABLE LAWS**

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The prevailing wage law (County Code §11B-33C) applies to construction contracts. Specifically, under County law, a County financed construction contract is subject to the Montgomery County Code regarding compliance with the prevailing wage paid to construction workers, as established for the County by the Maryland State Commissioner of Labor and Industry. Additional information regarding the County's prevailing wage requirements is contained within this solicitation/contract (see the provision entitled "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor").

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Maryland State Finance and Procurement Article, Section 13-101, et seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section. (Effective June 28, 2010).

Contractor and all of its subcontractors must provide the same benefits to an employee with a domestic partner as provided to an employee with a spouse, in accordance with County Code §11B-33D. An aggrieved employee, is a third-party beneficiary who may, by civil action, recover the cash equivalent of any benefit denied in violation of §11B-33D or other compensable damages. (Effective January 1, 2011).

**4. ASSIGNMENTS AND SUBCONTRACTS**

The contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Department of General Services. Unless performance is separately and expressly waived in writing by the Director, Department of General Services, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Department of General Services. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests.

**5. CHANGES**

The Director, Department of General Services, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Department of General Services, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

**6. CONTRACT ADMINISTRATION**

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Department of General Services, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;
- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Department of General Services, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;

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- (9) recommend contract modifications or terminations to the Director, Department of General Services;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

### 7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Department of General Services, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

### 8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Department of General Services, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Department of General Services, for the purpose of dispute resolution. The Department Head or his/her designee, must forward to the Director, Department of General Services, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Department of General Services or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Department of General Services, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Department of General Services, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

### 9. DOCUMENTS, MATERIALS AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

### 10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

### 11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

### 12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b)
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under Title 14 of the Election Law, Annotated Code of Maryland.

### 13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.

## RFP # 1005672

- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

### 14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

### 15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

### 16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

### 17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

### 18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

### 19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

### 20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

### 21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Department of General Services, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Thirty days written notice to the County of cancellation or material change in any of the policies is required, unless a longer period is required by applicable law. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Department of General Services, may waive the requirements of this section, in whole or in part.

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TABLE A. - INSURANCE REQUIREMENTS  
(See Paragraph #21 Under the General Conditions of Contract  
Between County and Contractor)

## CONTRACT DOLLAR VALUES (IN \$1,000's)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by Accident (each)	100	100	100	See
Disease (policy limits)	500	500	500	Attachment
Disease (each employee)	100	100	100	
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300	500	1,000	See Attachment
Minimum Automobile Liability (including owned, hired and non- owned automobiles)				
Bodily Injury each person	100	250	500	See
each occurrence	300	500	1,000	Attachment
Property Damage each occurrence	300	300	300	
Professional Liability* for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See Attachment

Certificate Holder  
Montgomery County Maryland (Contract #)  
Office of Procurement  
Rockville Center  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850-4166

\*Professional services contracts only

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**TABLE B. - INSURANCE REQUIREMENTS**  
 (See Paragraph #21 Under the General Conditions of Contract  
 Between County and Contractor)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder

Montgomery County Maryland (Contract #)  
 Office of Procurement  
 Rockville Center  
 255 Rockville Pike, Suite 180  
 Rockville, Maryland 20850-4166

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### 22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

### 23. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

### 24. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

### 25. PAYMENTS

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

### 26. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

### 27. TERMINATION FOR DEFAULT

The Director, Department of General Services, may terminate the contract in whole or in part, and from time to time, whenever the Director, Department of General Services, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Department of General Services, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

### 28. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

### 29. TIME

Time is of the essence.

### 30. WORK UNDER THE CONTRACT

Work may not commence under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

### 31. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

**THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.**

PMMD-45. REVISED 04/01/10



## **SECTION C - SCOPE OF SERVICES:**

### **1. BACKGROUND**

Chapter 48, Section 48-29(b) of the Montgomery County Code provides that only the County or its contract agent may collect solid waste from any single or double family dwelling unit within the solid waste collection and disposal district. Executive Regulation 47-93 creates subdistricts within the solid waste collection and disposal district and prescribes procedures and requirements for authorizing independent contractor collection of solid waste.

### **2. INTENT**

It is the intent of Montgomery County, Maryland (hereinafter referred to as the "County") to contract with a qualified offeror (hereinafter referred to as the "Contractor") to collect and transport refuse and recyclable materials as defined in the Contract for Residential Refuse, Recyclable Materials, Yard Trim, and Scrap Metal Collection Services in Area 3 (hereinafter referred to as the "Contract").

### **3. SCOPE OF SERVICES/SPECIFICATIONS/WORK STATEMENT**

- a. The detailed scope of services is set forth in the Contract, Attachment K.
- b. The County intends to contract for services of a qualified Contractor to provide weekly refuse and bulk collection services, weekly yard trim collection services, weekly scrap metal collection services, and weekly recyclable material collection services to residential Dwelling Units in the unincorporated area of Montgomery County known as Area 3. A description and map of Service Area 3 are contained in the Contract, Appendix A.
- c. On March 1, 2011 the number of dwelling units in Area 3 is estimated by the County to be 14,360. The area does not include municipalities. This estimate is included for information purposes only, and does not provide firm expectations of the exact number of dwelling units or the quantity of refuse or recyclable materials to be generated by the Residents and collected by the Contractor.
- d. The Contract is a "requirements-type" agreement only.

### **4. CONTRACTOR QUALIFICATIONS**

The Contractor selected by the County to enter into this Contract with the County shall be deemed to be the most qualified to perform the services as defined in the Contract. The scope of services is specifically defined in the Contract which is attached hereto, and method of award criteria is defined in this RFP.

### **5. CONTRACTOR RESPONSIBILITY AND REPORTING**

The Contractor's responsibilities and reporting requirements are set forth in the Contract, attached hereto as Attachment K.

### **6. COUNTY RESPONSIBILITY**

The County's responsibilities are set forth in the Contract, attached hereto as Attachment K.

### **7. DELIVERABLES/MILESTONES**

- a. The deliverables and milestones are set forth in the Contract, attached hereto as Attachment K.
- b. Sixty (60) days after execution of the Contract, Contractor must submit a detailed transition schedule to the Contract Administrator.
- c. Thirty (30) days after execution of Contract, Contractor must submit to Contract Administrator copies of records for equipment purchases.
- d. On or before April 4, 2012, Contractor must submit detailed route schedules for refuse, recycling, yard trim, and scrap metal routes to the Contract Administrator.

- e. On or before April 4, 2012, Contractor must submit copies of certified inspection certificates for all vehicles to the Contract Administrator.
- f. Upon commencement of service, Contractor must submit to Contract Administrator the names, mailing and email addresses and telephone numbers of all key personnel.

## **SECTION D - PERFORMANCE PERIOD**

### **1. TERM**

The effective date of this Contract begins upon signature by the Director, Department of General Services. Contractor must begin the provision of collection services on Monday, June 4, 2012, upon the County's issuance of a Notice to Proceed and cease on Saturday, June 9, 2018. Contractor must also perform all work in accordance with time periods stated in the Scope of Work. Before this term for performance ends, the Director at his/her sole option may (but is not required to) renew the term. Contractor's satisfactory performance does not guarantee a renewal of the term. The Director may exercise this option to renew this term two (2) times(s) for one (1) year each.

### **2. PRICE ADJUSTMENTS**

Prices quoted are firm for a period of two years after execution of the contract. Any request for a price adjustment, after this two-year period is subject to the following:

- Approval or rejection by the Director, Department of General Services or designee
- Submitted in writing to the Director, Department of General Services and accompanied by supporting documentation justifying the Contractor's request. A request for any price adjustment may not be approved unless the contractor submits to the county sufficient justification to support that the Contractor's request is based on its net increase in costs in delivering the goods/services under the contract.
- Submitted sixty (60) days prior to contract expiration date, if the contract is being amended.
- May not be approved which exceeds the amount of the annual percentage change of the Consumer Price Index (CPI) for the twelve-month period immediately prior to the date of the request. The request shall be based upon the CPI for all urban consumers issued for the Washington-Baltimore, DC-MD-VA-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS.
- The County will approve only one price adjustment for each contract term, if a price adjustment is approved.
- Should be effective sixty (60) days from the date of receipt of the contractor's request.
- Executed by written contract amendment.

## **SECTION E - METHOD OF AWARD/EVALUATION CRITERIA**

### **1. PROCEDURES**

- a. Upon receipt of proposals, the Qualification and Selection Committee (QSC) will review and evaluate all proposals in accordance with the evaluation criteria listed below under Section E.2.a.
- b. Vendor interviews may be conducted with the three (3) highest scoring offerors based on the QSC's score for each written proposal. The interview criteria that will then be utilized is listed below under Section E.2.b. The QSC will also review an offeror for responsibility.
- c. The QSC will make its award recommendation of the highest ranked offeror based on the QSC's combined written and interview scores, and its responsibility determination;
- d. The Using Department Head will review and forward the QSC recommendation with concurrence, objection, or amendment to the Director, Department of General Services.

- e. The Director, Department of General Services, may approve, approve with conditions, or reject the Using Department Head's recommendation.
- f. Upon approval of a recommended award to a proposed awardee(s), by the Director, Department of General Services, the County will enter into negotiations with the proposed awardee(s). If a contract cannot be successfully negotiated with the proposed awardee, the Using Department will proceed to negotiations with the next highest ranked offeror after obtaining approval from the Director. If the Director approves, negotiations may be held simultaneously or successively with one or more offerors prior to making an award.
- g. After the successful conclusion of negotiations, the Director will publicly post the name(s) of the proposed awardee(s).
- h. The County reserves the right to cancel the solicitation. The solicitation cancellation will be publicly posted.

## 2. EVALUATION CRITERIA

### POINTS

#### a. Written Proposal Evaluation Criteria

The QSC will evaluate the written proposals based on the following criteria.

- |  |    |
|--|----|
| 1. Quality of detailed work plan in achieving reliable and efficient service.  | 15 |
| 2. Competence and experience of key personnel, management staff and supervisors.   | 15 |
| 3. Resources of Contractor to achieve work objectives.   | 15 |
| 4. Past performance and experience in providing similar collection services in Montgomery County or other similar jurisdictions. | 25 |
| 5. Proposed Price.   | 30 |

Highest possible QSC score for written proposal evaluation:

100

#### b. Interview Evaluation Criteria

The QSC will evaluate the interviews based on the following criteria.

- |  |    |
|--|----|
| 1. Quality of detailed work plan in achieving reliable and efficient service   | 15 |
| 2. Competence and experience of key personnel, management staff, and supervisors.  | 15 |
| 3. Resources of Contractor to achieve work objectives.   | 15 |
| 4. Past performance and experience in providing similar collection services in Montgomery County or other similar jurisdictions. | 25 |
| 5. Proposed Price.   | 30 |

Highest possible QSC score for interview evaluation:

100

## **SECTION F - SUBMISSIONS**

### 1. PROPOSAL SUBMISSIONS

FAILURE OF AN OFFEROR TO SUBMIT ALL REQUIRED PROPOSAL SUBMISSIONS MAY RENDER YOUR PROPOSAL UNACCEPTABLE AS DETERMINED BY THE DIRECTOR, DEPARTMENT OF GENERAL SERVICES.

Offerors must submit one original and four (4) copies of their proposal in the format below. Written proposals will be evaluated on only what is submitted. The offeror must submit sufficient information to

enable the QSC to evaluate the offeror's capabilities and experience. Proposals must include the following information (including labeled sections numbered as shown):`

- a. A cover letter with a brief description of the firm, including the offeror's name, address, telephone number and fax number.
- b. The Acknowledgment (page 4) of this solicitation must be submitted and signed by a person authorized to bind the offeror to the proposal.
- c. At least three references that may be contacted to attest to the quality and timeliness of the offeror's work of similar nature and scope to the scope required by the County. (see Attachment A)
- d. If this solicitation is subject to the Wage Requirements Law (see page 1), then the offeror must submit the appropriate Wage Requirements forms in Attachment G. Failure to submit and complete the required material information on the form(s) will make your proposal unacceptable under County law and will be rejected.
- e. Metropolitan Washington Council of Governments Rider Clause - Attachment B
- f. Minority, Female, Disabled Persons Subcontractor Performance Plan (Attachment D). **To ensure a contract can move forward as a result of this solicitation, this plan needs to be submitted with your proposal.**
- g. Minority Business Program and Offeror's Representation - Attachment C
- h. Completed Price Schedule (Attachment I) must be submitted and signed by a person authorized to bind the offeror to the proposal and price.
- i. The Questionnaire (Attachment J) must be completed in its entirety and submitted with proposal.. Responses must include both the question and the answer.

## 2. AWARD SUBMISSIONS

Prior to the execution of the contract, the following items must be submitted:

- a. Minority, Female, Disabled Person Subcontractor Performance Plan (contract value greater than \$50,000) – Attachment D
- b. Offeror's Certification of Cost and Price (contract value greater than \$100,000) – Attachment E
- c. Certificate of Insurance (see mandatory insurance requirements) - Attachment F  
Awardee must provide the applicable insurance coverage and all costs for this coverage must be calculated into your proposal price. These insurance requirements supersede those found in the Provision #21 of the General Conditions between County and Contractor and are applicable to any contract executed as a result of this solicitation.
- d. Performance Bond - \$50,000 – See Section I.

## SECTION G - COMPENSATION

The contractor will be paid on a monthly basis within 30 days of submission of an acceptable and proper invoice, approved by the County.

## SECTION H - CONTRACT ADMINISTRATOR

### 1 AUTHORITY

The Director, Department of General Services, is the delegated contracting officer. Therefore, the Director, Department of General Services, must approve amendments, modifications, or changes to the terms, conditions, or minority, female, and disabled subcontractor plans in writing.

### 2. USING DEPARTMENT

The contract administrator for any contract(s) resulting from this solicitation will be Robin D. Ennis, Chief, Collections Section, Division of Solid Waste Services, Department of Environmental Protection.

The contract administrator's duties include, but are not limited to the following:

1. Serve as liaison between the County and Contractor;
2. Give direction to the Contractor to ensure satisfactory and complete performance;
3. Monitor and inspect the Contractor's performance to ensure acceptable timeliness and quality;
4. Serve as Records Custodian for this contract, including Wage Requirements;
5. Accept or reject the contractor's performance;
6. Furnish timely written notice of the contractor's performance failures to the Director, Department of General Services and to the County Attorney, as appropriate;
7. Prepare required reports;
8. Approve or reject invoices for payment;
9. Recommend contract modifications or terminations to the Director, Department of General Services;
10. Issue notices to proceed; and
11. Monitor and verify compliance with any MFD Performance Plan.

## **SECTION I - SPECIAL TERMS AND CONDITIONS**

### **1. PERFORMANCE BOND**

The Contract is not valid until and unless the County receives a duly executed Performance Bond (or Certified or Treasurer's Check or Irrevocable Letter of Credit) that is in an approved form, in the amount of \$50,000, for the Service Area awarded, and is made payable to Montgomery County, as security for the faithful performance of the Contract and having as surety thereon such surety company or companies as are acceptable to the County and as are authorized to transact business in the State of Maryland. The Contractor must maintain the Performance Bond in full force and effect until the termination of the Contract. The County has the right to approve, disapprove, or require changes to any instrument offered as a Performance Bond. If the County does not approve the Performance Bond, the Contractor has until close of business ten (10) calendar days from the date of disapproval to furnish an acceptable Performance Bond. If not corrected, the County has the option to rescind the recommended award and to commence negotiations with the next highest rated offeror. The Performance Bond must provide assurance of the Contractor's faithful performance and discharge of all duties and responsibilities required by law and/or as provided by the Contract.

## **SECTION J - ETHICS**

As a result of being awarded this contract the successful contractor may be ineligible for the award of related contracts. Montgomery County Code Sections 11B-52 (b) and (c) state:

A contractor providing an analysis or recommendation to the County concerning a particular matter must not, without first obtaining the written consent of the Chief Administrative Officer:

- (1) Assist
  - (a) another party in the matter; or
  - (b) another person if the person has a direct and substantial interest in the matter; or
- (2) Seek or obtain an economic benefit from the matter in addition to payment to the contractor by the County.

**ATTACHMENT A**

**REFERENCES**

(must submit at least three)

You are requested to provide references to the County with your proposal. The three (3) different references must be from individuals or firms currently being serviced or supplied under similar contracts, or for whom work of a similar scope has been performed within the last year. Names for references shall be of individuals who directly supervised or had direct knowledge of the services or goods provided. Failure of an offeror to provide the County with references within the time frame as stated herein may result in the offeror being considered non-responsible.

NAME OF

JURISDICTION #1: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

NAME OF

JURISDICTION #2: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

NAME OF

JURISDICTION #3: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ PHONE: \_\_\_\_\_

RFP # 1005672  
**ATTACHMENT B**

**METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS RIDER CLAUSE**

**USE OF CONTRACT(S) BY MEMBERS COMPRISING THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS PURCHASING OFFICERS' COMMITTEE.**

- A. If authorized by the offeror(s), resultant contract(s) will be extended to any or all of the listed members as designated by the offeror to purchase at contract prices in accordance with contract terms.
- B. Any member utilizing such contract(s) will place its own order(s) directly with the successful Contractor. There shall be no obligation on the part of any participating member to utilize the contract(s).
- C. A negative reply will not adversely affect consideration of your proposal.
- D. It is the awarded vendor's responsibility to notify the members shown below of the availability of the Contract(s).
- E. Each participating jurisdiction has the option of executing a separate contract with the awardee. Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the awardee, the awardee may withdraw its extension of the award to that jurisdiction.
- F. The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to that jurisdiction by the awardee.

**In pricing section of contract:**

**OFFEROR'S AUTHORIZATION TO EXTEND CONTRACT:**

<u>YES</u>	<u>NO</u>	<u>JURISDICTION</u>	<u>YES</u>	<u>NO</u>	<u>JURISDICTION</u>
		Alexandria, Virginia			Manassas Park, Virginia
		Alexandria Public Schools			Maryland-National Capital Park & Planning
		Alexandria Sanitation Authority			Commission
		Arlington County, Virginia			Metropolitan Washington Airports Authority
		Arlington County Public Schools			Metropolitan Washington Council of
		Bladensburg, Maryland			Governments
		Bowie, Maryland			Montgomery College
		Charles County Public Schools			Montgomery County, Maryland
		College Park, Maryland			Montgomery County Public Schools
		Culpeper County, Virginia			Northern Virginia Community College
		District of Columbia			OmniRide
		District of Columbia Courts			Potomac & Rappahannock Transportation
		District of Columbia Public Schools			Commission
		District of Columbia Water & Sewer			Prince George's County, Maryland
		Authority			Prince George's County Public Schools
		Fairfax, Virginia			Prince William County, Virginia
		Fairfax County, Virginia			Prince William County Public Schools
		Fairfax County Water Authority			Prince William County Service
		Falls Church, Virginia			Authority
		Fauquier County Schools & Government,			Rockville, Maryland
		Virginia			Spotsylvania County Schools
		Frederick, Maryland			Stafford County, Virginia
		Frederick County, Maryland			Takoma Park, Maryland
		Gaithersburg, Maryland			Upper Occoquan Sewage Authority
		Greenbelt, Maryland			Vienna, Virginia
		Herndon, Virginia			Virginia Railway Express
		Leesburg, Virginia			Washington Metropolitan Area Transit
		Loudoun County, Virginia			Authority
		Loudoun County Public Schools			Washington Suburban Sanitary Commission
		Loudoun County Sanitation Authority			Winchester, Virginia
		Manassas, Virginia			Winchester Public Schools
		City of Manassas Public Schools			

Vendor Name

RFP # 1005672  
**ATTACHMENT C**

**MINORITY BUSINESS PROGRAM & OFFEROR'S REPRESENTATION**

It is the policy of the County to recruit actively, minority-owned businesses to provide goods and services to perform governmental functions pursuant to Section 11B-57 of the County Code. Minority-owned businesses are described in County law as Minority/Female/Disabled Person-owned businesses (MFD). MFD businesses include certain non-profit entities organized to promote the interests of persons with a disability demonstrating (on a contract by contract basis) that at least 51% of the persons used by the non-profit entity to perform the services or manufacture the goods contracted for by the County, are persons with a disability. MFD firms also include those firms that are 51% owned, controlled and managed by one or more members of a socially or economically disadvantaged minority group, which include African Americans who are not of Hispanic origin, Hispanic Americans, Native Americans, Asian Americans, Women and Mentally or Physically Disabled Persons.

Section 7 – “Minority Contracting” Montgomery County Procurement Regulations specifies the procedure to be followed and will govern the evaluation of offers received pursuant to this solicitation. A copy of Section 7 of the Procurement Regulations is available upon request.

Prior to awarding contracts with a value of \$50,000 or more, a prospective Contractor (who is not a certified MFD firm) must demonstrate that a minimum percentage of the overall contract value as set by the County, will be subcontracted to certified MFD businesses. A decision as to whether the prospective Contractor has demonstrated a good faith effort to meet this subcontracting requirement will be made by the Director, Department of General Services or his/her designee, who may waive this requirement.

A sample of the MFD Report of Payment Received is attached. This form is mailed to the MFD Subcontractor to complete for documentation of payment by the Prime contractor. It is not to be completed by the Prime contractor nor submitted with the MFD Subcontractor Performance Plan.

The Director, Department of General Services or his /her designee determines whether a waiver of MFD subcontracting would be appropriate, under Section 7.3.3.5 of the Procurement Regulations.

For further information regarding the MFD Business Program, please contact the MFD Program, Office of Business Relations and Compliance, at (240) 777-9912.

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Offerors are encouraged (but not required) to complete the following:

I hereby represent that this is a Minority Business firm as indicated below (CIRCLE ONE):

AFRICAN AMERICAN	ASIAN AMERICAN	DISABLED PERSON
FEMALE	HISPANIC AMERICAN	NATIVE AMERICAN

Attach one of the following certification documents from: Maryland Department of Transportation (MDOT); Virginia Small, Women & Minority-Owned Business; Federal SBA 8(a); MD/DC Minority Supplier Development Council, Women's Business Enterprise National Council; or City of Baltimore.





RFP # 1005672

**Montgomery County MFD Report of Payments Received For Office Use  
Office of Business Relations and Compliance**

**SAMPLE ONLY! NOT TO BE USED BY PRIME**

MFD Subcontractor Company Name: \_\_\_\_\_

Prime Contractor Company Name: \_\_\_\_\_

Contract Number/Title: \_\_\_\_\_

Project Location: \_\_\_\_\_

MFD Subcontract Amount: \$ \_\_\_\_\_

PLEASE READ CAREFULLY BEFORE SIGNING

This certifies that for the month of \_\_\_\_\_, my company received \$ \_\_\_\_\_ for work performed, services rendered and/or materials supplied on the above contract.

TOTAL AMOUNT OF SUBMITTED INVOICES TO

DATE: \$ \_\_\_\_\_

TOTAL PAYMENTS RECEIVED TO DATE: \$ \_\_\_\_\_

Are you experiencing any contract problems with the prime contractor and/or the project? YES ☐ NO ☐

Comments: \_\_\_\_\_

I certify that the above information is true and accurate to the best of my record documentation and knowledge.

\_\_\_\_\_  
(TYPED/PRINTED COMPANY NAME)

\_\_\_\_\_  
(TYPED/PRINTED NAME OF COMPANY OFFICIAL)

\_\_\_\_\_  
(TITLE)

\_\_\_\_\_  
(SIGNATURE OF COMPANY OFFICIAL)

\_\_\_\_\_  
(DATE)

( ) - ( )  
TELEPHONE FAX E-MAIL

Mail to: Alvin Boss, Program  
Specialist II  
255 Rockville Pike, Ste. 180  
Rockville, MD 20850

RFP # 1005672  
**ATTACHMENT D**

MINORITY-OWNED BUSINESS ADDENDUM TO THE GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY AND CONTRACTOR, AND ITS COMPANION DOCUMENT “MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR PERFORMANCE PLAN”.

- A. This contract is subject to the Montgomery County Code and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program.
- B. Contractor must subcontract a percentage of the total dollar value of the contract, including all modifications and renewals, to certified minority owned businesses. The MFD subcontracting goal may be waived under appropriate circumstances by submission of a letter to the Office of Business Relations and Compliance. The letter must explain why a waiver is appropriate. The Director, Department of General Services or designee may waive, in whole or in part, the MFD subcontracting goal if the Director determines that a waiver is appropriate under Section 7.3.3.5 of the Montgomery County Procurement Regulations. In determining if a waiver should be granted, the Director may require the Contractor to submit additional information; the Director may require the Contractor to submit some or all of this information on forms approved by the Director.
- C. The attached MFD Subcontractor Performance Plan, which must be approved by the Director, is an integral part of the contract between County and Contractor. In a multi-term contract, Contractor must submit a MFD Subcontract Performance Plan to be in effect for the life of the contract, including any renewal or modification.
- D. Contractor must include in each subcontract with a minority owned business a provision that requires the use of binding arbitration with a neutral arbitrator to resolve disputes between the Contractor and the minority owned business subcontractor. This arbitration provision must describe how the cost of dispute resolution will be apportioned; the apportionment must not, in the judgment of the Director, attempt to penalize a minority owned business subcontractor for filing an arbitration claim.
- E. County approval of the MFD Subcontractor Performance Plan does not create a contractual relationship between the County and the minority owned business subcontractor.
- F. Contractor must notify and obtain prior written approval from the Director regarding any change in the MFD Subcontractor Performance Plan.
- G. Before receiving final payment under this contract, Contractor must submit documentation showing compliance with the MFD Subcontracting Performance Plan. Documentation may include, at the direction of the Director, invoices, copies of subcontracts with minority owned businesses, cancelled checks, affidavits executed by minority owned business subcontractors, waivers, and arbitration decisions. The Director may require Contractor to submit periodic reports on a form approved by the Director. The Director may conduct an on-site inspection for the purpose of determining compliance with the MFD Subcontractor Performance Plan. If this is a multi-term contract, final payment means the final payment due for performance rendered for each term of the contract.
- H. If the Contractor fails to submit documentation demonstrating compliance with the MFD Subcontractor Performance Plan, to the satisfaction of the Director, after considering relevant waivers and arbitration decisions, the Contractor is in breach of this contract. In the event of a breach of contract under this addendum, the Contractor must pay to the County liquidated damages equal to the difference between all amounts the Contractor has agreed under its Plan to pay minority owned business subcontractors and all amounts actually paid minority owned business subcontractors with appropriate credit given for any relevant waiver or arbitration decision. Contractor and County acknowledge that damages which would result to the County as a result of a breach under this addendum are difficult to ascertain, and that the liquidated damages provided for in this addendum are fair and reasonable in estimating the damage to the County of a breach of this addendum by Contractor. In addition, the County may terminate the contract. As the result of a breach under this addendum, the Director, Department of General Services, must find the Contractor non-responsible for purposes of future procurement with the County for the ensuing three years.

RFP # 1005672  
MINORITY, FEMALE, DISABLED PERSON SUBCONTRACTOR  
PERFORMANCE PLAN

Contractor's

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

CONTRACT NUMBER/PROJECT DESCRIPTION: \_\_\_\_\_

A. Individual designated assigned by Contractor to monitor ensure Contractor's compliance with MFD Subcontractor Performance Plan:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

B. This Plan covers the life of the contract from contract execution through the final contract expiration date.

C. The percentage of total contract dollars, including modifications and renewals, to be paid to all certified minority owned business subcontractors, is \_\_\_\_\_% of the total dollars awarded to Contractor.

D. Each of the following certified minority owned businesses will be paid the percentage of total contract dollars indicated below as a subcontractor under the contract.

I hereby certify that the business (es) listed below are certified by one of the following: Maryland Department of Transportation (MDOT); Virginia Small, Woman and Minority Owned Business (SWAM); Federal SBA (8A); MD/DC Minority Supplier Development Council (MSDC); Women's Business Enterprise National Council (WBENC); or City of Baltimore.

A Certification Letter must be attached.

For assistance, call 240-777-9912.

1. Certified by: \_\_\_\_\_

Subcontractor Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor: \_\_\_\_\_

This subcontractor will provide the following goods and/or services:

2. Certified by:

Subcontractor Name:

Title:

Address:

City:

State:

Zip:

Phone Number:

Fax Number:

Email:

CONTACT PERSON:

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

3. Certified by:

Subcontractor Name:

Title:

Address:

City:

State:

Zip:

Phone Number:

Fax Number:

Email:

CONTACT PERSON:

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor:

This subcontractor will provide the following goods and/or services:

4. Certified By:

Subcontractor Name:

Title:

Address:

City:

State:

Zip:

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Email: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

Circle MFD Type:

AFRICAN AMERICAN

ASIAN AMERICAN

DISABLED PERSON

FEMALE

HISPANIC AMERICAN

NATIVE AMERICAN

The percentage of total contract dollars to be paid to this subcontractor: \_\_\_\_\_

This subcontractor will provide the following goods and/or services: \_\_\_\_\_

E. The following language will be inserted in each subcontract with a certified minority owned business listed in D above, regarding the use of binding arbitration with a neutral arbitrator to resolve disputes with the minority owned business subcontractor; the language must describe how the costs of dispute resolution will be apportioned:

F. Provide a statement below, or on a separate sheet summarizing maximum good faith efforts achieved, and/or the intent to increase minority participation through out the life of the contract. or the basis for a full waiver request:

G. A full waiver request must be justified and attached.

Full Waiver Approved:

Partial Waiver Approved:

\_\_\_\_\_  
MFD Program Officer

Date: \_\_\_\_\_

\_\_\_\_\_  
MFD Program Officer

Date: \_\_\_\_\_

Full Waiver Approved:

Partial Waiver Approved:

\_\_\_\_\_  
Director  
Department of General Services

Date: \_\_\_\_\_

\_\_\_\_\_  
Director  
Department of General Services

Date: \_\_\_\_\_

The Contractor submits this MFD Subcontractor Performance Plan (Plan Modification No. \_\_\_\_\_) in accordance with the Minority Owned Business Addendum to General Conditions of Contract between County and Contractor.

CONTRACTOR SIGNATURE

USE ONE:

1. TYPE CONTRACTOR'S NAME: \_\_\_\_\_

Signature

---

Typed Name

---

Date

2. TYPE CORPORATE CONTRACTOR'S NAME:

---

Signature

---

Typed Name

---

Date

I hereby affirm that the above named person is a corporate officer or a designee empowered to sign contractual agreements for the corporation.

---

Signature

---

Typed Name

---

Title

---

Date

APPROVED:

---

Director, Department of General Services

---

Date

Section 7.3.3.4(a) of the Procurement Regulations requires:

The Contractor to notify the Director, Department of General Services of any proposed change to the Subcontractor Performance Plan.

RFP # 1005672  
**ATTACHMENT E**

OFFEROR'S CERTIFICATION OF COST AND PRICE

The Director, Department of General Services, has the authority to require that contract cost and pricing principles are followed. Cost and Pricing Data must be submitted by offerors or contractors in the attached format prior to the execution of any contract or contract amendment based on the following:

1. A competitively negotiated contract valued at more than \$100,000.
2. A non-competitive contract valued at more than \$50,000.
3. Any contract modification for which the price adjustment is expected to exceed \$50,000, except contract modifications that are fully in accordance with the terms and conditions of the contract.
4. Any other contracts or contracts modification, as may be required by the CAO or Director.

OFFEROR'S CERTIFICATION

This cost proposal reflects our best estimates and/or actual costs as of this date and conforms to the cost exhibits and schedules provided by the County's Office of Procurement. By submitting this proposal, the offeror grants the contracting officer or an authorized representative the right to examine, as the basis for pricing that will permit an adequate evaluation of the proposed price, books, records, documents, and other types of factual information, if specifically referenced or included in the cost proposal.

The offeror also agrees that the price to the County, including profit or fee, may, at the option of the County, be adjusted to reduce the price to the County to the extent that the price was based on inaccurate, incomplete, or non-current data supplied by the offeror.

---

Name

---

Title

---

Name of Firm

---

Date of Submission

---

Signature of Authorized Representative

RFP # 1005672  
COST AND PRICE REQUIREMENTS

By submitting your proposal, you, if selected for negotiation, grant the Contracting Officer or an authorized representative the right to examine those books, records, documents and any other supporting data that will permit adequate evaluation of the proposed price. This right may be exercised at any time prior to award of a contract. The Montgomery County Government may utilize an independent contractor for cost and price analysis or to examine your books and records.

The Cost/price for any resultant contract will be negotiated on the basis of the successful offeror's normal estimating and/or accounting system or the system set forth in Cost Accounting Standards Board Disclosure Statement as required by Public Law 100-679.

Prior to contract execution, the intended awardee may be required to provide the following information;

- A. Latest and previous year's financial statement or profit and loss statement.
- B. Burdened rate verification detailing the composition and value of the elements of Fringe Benefits, Overhead, General and Administrative Overhead, Profit or Fee.



RFP # 1005672  
**ATTACHMENT F**

**MANDATORY INSURANCE REQUIREMENTS**

***Residential Collection Service Agreement***

Prior to the execution of the contract by the County, the proposed awardee must obtain at their own cost and expense the following insurance with an insurance company/companies licensed to do business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/Contractor shall provide a copy of the insurance policies. The Contractor's insurance shall be primary.

**Commercial General Liability**

A minimum limit of liability of ***five million dollars (\$5,000,000)***, combined single limit, for bodily injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors
- Products and Completed Operations

**Automobile Liability Coverage**

A minimum limit of liability of ***five million dollars (\$5,000,000)***, combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles

**Workers' Compensation/Employer's Liability**

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$1,000,000 each accident***
- Bodily Injury by Disease - \$1,000,000 policy limits***
- Bodily Injury by Disease - \$1,000,000 each employee***

**Additional Insured**

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees must be named as an additional insured on Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods and services provided under this contract.

**Policy Cancellation**

Thirty (30) days written notice of cancellation or material change of any of the policies is required.

**Certificate Holder**

Montgomery County, Maryland  
Office of Procurement / Robert Norris  
255 Rockville Pike  
Rockville, Maryland 20850

**ATTACHMENT G**

**WAGE REQUIREMENTS FOR SERVICES CONTRACT ADDENDUM TO THE GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY AND CONTRACTOR**

- A. This contract is subject to the wage requirements of Section 11B-33A of the Montgomery County Code. A County contract for the procurement of services must require the contractor and any of its subcontractors to comply with the wage requirements of this Section, subject to exceptions from coverage for particular contractors noted in 11B-33A(b) and for particular employees noted in 11B-33A(f).
- B. Conflicting requirements (11B-33A(g)): If any federal, state, or County law or regulation requires payment of a higher wage, that law or regulation controls. If any applicable collective bargaining agreement requires payment of a higher wage, that agreement controls.
- C. Nonprofit organizations who are exempt from the wage requirements under 11B-33A must specify the wage the organization intends to pay to those employees who will perform direct, measurable work under the contract, and any health insurance the organization intends to provide to those employees.
- D. A contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as a subcontractor or independent contractor, to avoid the imposition of any requirements in 11B-33A.
- E. Each contractor and subcontractor covered under 11B-33A must: certify that it is aware of and will comply with the applicable wage requirements; keep and submit any verifiable records necessary to show compliance; and conspicuously post notices, approved and/or supplied by the County, informing employees of the wage requirements.
- F. An employer must comply with Section 11B-33A during the initial term of the contract and all subsequent renewal periods and must pay an increase adjustment in this wage rate, if any, automatically effective July 1 of each year. The County will adjust the wage rate by the annual average increase in the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or successor index, for the previous calendar year and must calculate the adjustment to the nearest multiple of 5 cents.
- G. An employer must not discharge or otherwise retaliate against an employee for asserting any right or filing a complaint of a violation, under the wage requirements.
- H. The sanctions under Section 11B-33(b), that apply to noncompliance with nondiscrimination requirements, apply with equal force and scope to noncompliance with the wage requirements under 11B-33A.
- I. The County may assess liquidated damages for any noncompliance by contractor with the Section 11B-33A wage requirements at the rate of 1% per day of the total contract amount, or for a requirements contract, the estimated annual contract value, for each day of the violation. This liquidated damages amount includes the amount of any unpaid wages, with interest. In the event of a breach of contract under this paragraph, the Contractor must pay to the County liquidated damages noted above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimating the damage to the County resulting from a breach of this paragraph by Contractor. In addition, the contractor is jointly and severally liable for any noncompliance by a subcontractor. Furthermore, Contractor agrees that an aggrieved employee, as a third-party beneficiary, may by civil action enforce the payment of wages due under the Section 11B-33A wage requirements and recover from Contractor any unpaid wages with interest, a reasonable attorney's fee, and damages for any retaliation for asserting any right or claim under the 11B-33A wage requirements.
- J. The Director may conduct random audits to assure compliance with Section 11B-33A. The Director may conduct an on-site inspection(s) for the purpose of determining compliance.
- K. If the Contractor fails, upon request by the Director, to submit documentation demonstrating compliance with Section 11B-33A to the satisfaction of the Director, the Contractor is in breach of this contract. In the event of a breach of contract under this paragraph, upon request by the County, the Contractor must pay to the County liquidated damages noted in paragraph I. above, in addition to any other remedies available to the County. Contractor and County acknowledge that damages that would result to the County as a result of a breach under this paragraph are difficult to ascertain, and that the liquidated damages provided for in this paragraph are fair and reasonable in estimating the damage to the County resulting from a breach of this paragraph by Contractor.

RFP # 1005672  
**Wage Requirements Certification**  
(Montgomery County Code, Section 11B-33A)

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Please provide in the spaces below the contact name and information of the individual designated by your firm to monitor your compliance with the County's wage requirements, unless exempt under Section 11B-33A (b) (see section B. below):

Contact Name			Title	
Phone Number		Fax Number		
E-mail Address				

YOU MUST MARK ☒ ALL BOXES BELOW that apply in the event that you, as an "Offeror," are awarded the contract and become a "Contractor":

☐ A. Wage Requirements Compliance

This Contractor as a "covered employer" will comply with the requirements under Section 11B-33A, Wage Requirements. Contractor and its subcontractors will pay all employees not exempt under the wage requirements, and who perform direct measurable work for the County, the wage requirements effective at the time the work is performed. The proposal price(s) submitted under this solicitation include(s) sufficient funds to meet the wage requirements. A "covered employer" must quarterly (January, April, July and October for the prior quarter) submit certified payroll records for all employees, and any subcontractor employees, governed by the Wage Requirements Law, for each payroll period to the Office of Business Relations and Compliance, Attn: Wage Program Manager. These payroll records must include the following: name; address; position/title; daily straight time hours worked; daily overtime hours worked; straight time hourly pay rate; overtime hourly pay rate; any deduction for health insurance; total gross wages paid for each period; and total net wages paid after any additions and deductions for each pay period.

B. Exemption Status (if applicable)

This Contractor is exempt from 11B-33A, "Wage Requirements," because it is:

1. Reserved [Intentionally left blank].
- ☐ 2. a contractor who, at the time a contract is signed: has received less than \$50,000 from the County in the most recent 12-month period; and will be entitled to receive less than \$50,000 from the County under that contract in the next 12-month period. Section 11B-33A (b) (2).
- ☐ 3. a contract with a public entity. Section 11B-33A (b) (3).

- ☐ 4. a contract with a nonprofit organization that has qualified for an exemption from federal income taxes under Section 501(c) (3) of the Internal Revenue Code. Section 11B-33A (b) (4) (**must complete item C below**).
- ☐ 5. an employer to the extent that the employer is expressly precluded from complying with this Section by the terms of any federal or state law, contract, or grant. Section 11B-33A (b) (8) (**must specify the law, or furnish a copy of the contract or grant**).
- ☐ C. Nonprofit Wage & Health Information  
This Contractor is a Nonprofit organization that is exempt from coverage under Section 11B-33A b) (4). Accordingly, the contractor has completed the 501(c) (3) Nonprofit Organization's Employee's Wage and Health Insurance Form which is attached. See Section 11B-33A(c) (2).
- ☐ D. Nonprofit's Comparison Price(s) (if desired)  
This Contractor is a Nonprofit organization that is opting to pay its covered employees the hourly rate specified in the wage requirements. Accordingly, Contractor is duplicating the blank quotation sheet on which it is submitting its price(s) in the IFB, and is submitting on this duplicate form its price(s) to the County had it not opted to pay its employees the hourly rate specified in the wage requirements. For bid evaluation purposes, this price(s) will be compared to price(s) of another Nonprofit organization(s) that is paying its employees an amount consistent with its exemption from paying the hourly rate under the wage requirements. This revised information on the duplicate quotation sheet must be clearly marked as your Nonprofit organization comparison price(s). In order to compare your price(s), the revised information on the duplicate quotation sheet must be submitted with your bid, must show how the difference between your price(s) and your Nonprofit organization comparison price(s) was calculated, and will not be accepted after the bid opening date. See Section 11B-33A(c) (2).
- ☐ E. Wage Requirements Reduction (if applicable)  
This Contractor is a "covered employer", and it desires to reduce its hourly rate paid under the wage requirements by an amount equal to, or less than, the per employee hourly cost of the employer's share of the health insurance premium. Contractor certifies that the per employee hourly cost of the employer's share of the premium for that insurance is: \$ \_\_\_\_\_. See Section 11B-33A(d).

### Contractor Certification

CONTRACTOR SIGNATURE: Contractor submits this certification form in accordance with Section 11B-33A of the Montgomery County Code. Contractor certifies that it, and any and all of its subcontractors that perform services under the resultant contract with the County, adheres to Section 11B-33A of the Montgomery County Code.

Authorized Signature		Title of Authorized Person	
Typed or printed name		Date	

**501(c) (3) Nonprofit Organization's Employee's  
Wage and Health Insurance Form**

Business Name					
Address					
City		State		Zip Code	
Phone Number		Fax Number			
E-Mail Address					

Please provide below the employee labor category of all employee(s) who will perform direct measurable work under this contract, the hourly wage the organization pays for that employee labor category, and any health insurance the organization intends to provide for that employee labor category:

Employee Labor Category	Wage per Hour	Name of Health Insurance Provider(s) and Plan Name* (e.g. ABC Insurer, Inc. , HMO Medical and Dental)

**NOTE:** IF NO HEALTH INSURANCE PLAN IS PROVIDED PLEASE STATE "NONE".

RFP # 1005672  
**ATTACHMENT H**

**PREVAILING WAGE REQUIREMENTS FOR CONSTRUCTION CONTRACT ADDENDUM TO THE  
GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY AND CONTRACTOR**

The Contractor and all Subcontractors must comply with the Prevailing Wage Law contained in Chapters 11B-33C and 20-75 of the Montgomery County Code. Prevailing wage means the wage rate paid by employers that is determined by a governmental authority, based upon a particular geographic area, for a given class of labor and type of project. The purpose of a prevailing wage is to ensure that construction workers who work on public works contracts are paid the going rate for their services. The prevailing wage rates are established by the State of Maryland and apply to all of the Contractor's employees and any and all Subcontractors. The Contractor and all Subcontractors must comply with all of the requirements of the Prevailing Wage Law including, but not limited to, the following:

1. Pay employees the prescribed rate as annually established by the State of Maryland Commissioner of Labor and Industry; the prevailing wage rates in effect on the date a solicitation is issued will apply throughout the term of a contract resulting from that solicitation.
2. Pay employees overtime for work more than 10 hours in any single day, work more than 40 hours in a work week, or work on Sunday or legal holiday;
3. Classify employees in their proper work classification in conformance with the schedule established by the State of Maryland Commissioner of Labor and Industry;
4. Electronically submit payroll records through [www.LCPTTracker.net](http://www.LCPTTracker.net), within 14 days after the end of each payroll period, to verify that Prevailing Wage rates have been paid to employees. The payroll records must include the following:
  - A. The name, address and telephone number of the Contractor or Subcontractor;
  - B. The name and location of the job;
  - C. Each employee's:
    - a. Name;
    - b. Current address unless previously reported;
    - c. Specific work classification;
    - d. Daily straight time and overtime hours;
    - e. Total straight time and overtime hours for the payroll period;
    - f. Rate of pay;
    - g. Fringe benefits by type and amount;
    - h. Gross wages.
5. If a Contractor or any Subcontractors are late in submitting copies of any payroll records required to be submitted under the Prevailing Wage Law, the County may deem Contractor's invoice(s) submitted to the County for payment unacceptable until the Contractor and Subcontractors provide the required records; and, the County may postpone processing payments otherwise due under the Contract or under an agreement to finance the Contract;
6. The Contractor and all Subcontractors must retain all payroll records for a period not less than five (5) years after the Work is completed;
7. The County may inspect the payroll records at any reasonable time and as often as it deems necessary;
8. The County may perform random or regular audits and investigate any complaint of a violation of the Prevailing Wage Law;
9. In the event the County determines that a provision of the Prevailing Wage Law has been violated, the County may withhold payment to the Contractor in an amount sufficient to pay each employee of the Contractor or any Subcontractors the full amount of wages due under the Prevailing Wage Law, and an amount sufficient to satisfy a liability of a Contractor or any Subcontractors for liquidated damages as provided under the Prevailing Wage Law, pending a final decision on the violation by the County;
10. Contractor may appeal a written decision of the Director, Department of General Services, that the Contractor violated a provision of the Prevailing Wage Law to the Chief Administrative Officer ("CAO"), within ten (10) days after receiving a copy of the

RFP # 1005672

decision. The CAO must designate a hearing officer to conduct a hearing upon receipt of a timely appeal. If the Contractor does not appeal a written decision within ten (10) days after receipt, the decision of the Director, Department of General Services, becomes final and binding;

11. Contractor and all Subcontractors must not discharge, or otherwise retaliate against, an employee for asserting any right under the Prevailing Wage Law or for filing a complaint of a violation;

12. An aggrieved employee is a third-party beneficiary of this Contract and the employee may by civil action recover the difference between the prevailing wage for the type of work performed and the amount actually received, with interest and a reasonable attorney's fee; and

13. Each Contract subject to the Prevailing Wage Law may specify the payment of liquidated damages to the County by the Contractor and any Subcontractors for any noncompliance with the Prevailing Wage Law. Liquidated damages are: \$10 for each calendar day that the payroll records are late; \$20 per day for each day that an employee is misclassified; and \$50 per violation of the requirement to post the prevailing wage rates at the work site.

**ATTACHMENT I****SCHEDULE OF PRICES****RFP #1005672****Proposed Monthly Service Fees for a Six (6) Year Agreement  
(Per Dwelling Unit per Month)**

Column A + Column B + Column C + Column D + Column E = Column F						
<b>Service Area</b>	<b>Refuse Collection Component</b>	<b>Bulk Trash Collection Component</b>	<b>Recyclable Material Collection Component</b>	<b>Yard Trim Collection Component</b>	<b>Scrap Metal Collection Component</b>	<b>Total Monthly Service Fee</b>
<b>Area 3</b> 14,360 Dwelling Units (estimated)	\$	\$	\$	\$	\$	\$  Per Dwelling Unit

---

 Authorized Signature

---

 Date

---

 Title



## **ATTACHMENT J**

### **QUESTIONNAIRE INSTRUCTIONS**

The following questionnaire seeks information concerning the offeror's organization, experience in contracts similar to those described herein, and information relating to the equipment and operating plan the offeror proposes to use in the service of the Contract. Where appropriate, each offer must indicate if the answer provided is based on the experience of one or more of the key personnel, management and staff of the company, or based on the experience of the company. If a partnership, company, corporation or other entity owns a controlling interest in the offeror, responses to each question in the questionnaire must be submitted for both the offeror and the parent entity. For purposes of this paragraph, "controlling interest" shall mean ownership of ten percent (10%) or more of the beneficial ownership of the offeror. Information submitted in response to this questionnaire will be considered binding on the successful offeror, and any substitutions or deviations must be approved by the County.

#### **Manner of Preparing and Completing Forms**

Offerors submitting proposals for both a traditional collection system and a carbon footprint reduction proposal must submit a proposal including a completed questionnaire for each proposal submitted.

Unless otherwise indicated, the offeror must include information for only the specified single business organization or entity which is submitting a proposal for the Contract described in the RFP, and which would be the signatory of the Contract.

All answers and other entries on the forms, except signatures, shall be typewritten or legibly printed. It is the responsibility of the offeror to provide answers to all questions. Failure to do so may be grounds for rejection. Additional pages may be used to respond to questions or charts. Please reference the question on any additional pages.

All entries and answers must be specific and complete in detail. Montgomery County reserves the right to make independent inquiries concerning the information submitted herein and to conduct any additional investigation necessary to determine the offeror's qualifications. ,

#### **Use of Attachments**

Answers, schedules, resumes, reports, diagrams, and other forms of information may be used as attachments to the prescribed form, provided that the information contained therein specifically includes the information required by this form, and provided the offeror clearly references the attachments on this form. The purpose of this Questionnaire and any attachments is to supply information about the offeror to Montgomery County so that Montgomery County may determine the offeror's qualifications to perform the work. All attachments must be typewritten.

#### **Submission**

The questionnaire must be submitted along with the offeror's proposal in accordance with the information and specifications contained in the RFP.

RFP # 1005672  
**ATTACHMENT J**  
**QUESTIONNAIRE**

1. TYPE OF COMPANY: ( ) Corporation ( ) Partnership ( ) Individual ( ) Other, describe
2. List parent organizations, their address(es), ownership, and contact information.
3. For what period of time has your company used its present name?
4. What were your company's previous names? List the dates these names were used.
5. How many years experience has your company had in the following type of work? Work listed must be primary task.

As a Contractor

As a Sub-Contractor

- A. Solid Waste Collection Operation
- B. Recyclable Materials Collection Operation
- C. Yard Trim Collection Operations
- D. Other transfer/transport operations
- E. Solid Waste (non-transfer/transport)

6. Chronologically list the franchises/collection agreements your company has been awarded and serviced in the past ten (10) years that are listed in #5(A), 5(B), and 5(C) above. A separate sheet may be used. Both questions and answers must be referenced.

Project Owner, City, County, or State	Name of Surety if Contract Bonded	Number of Dwelling Units Serviced	Annual Contract Amount	Contract Period	Prime, Joint-Venture, or Sub-contractor	Services Provided, Frequency	References – Name, title, current address and phone.

7. For each franchise/contract listed in Item No. 6 above, provide a brief description of the project and your company's responsibilities.
8. Has your company or any Key Personnel currently or ever been involved in any litigation or breach of contract claims during or after the term of the aforementioned contracts? If yes, explain in detail the circumstances and the outcome.
9. If the offeror is a joint venture, unincorporated association, subsidiary, partnership, or any entity formed within the last 12 months, the offer must submit such declarations of all entities forming such a joint venture, unincorporated association, partnership, or other entity.

10. Please describe the organizational structure under which you will manage the service provided in the Agreement. This should be included, but not limited to, the names and titles of persons who are responsible for the following areas of expertise: direct supervision, overall project management, personnel, equipment maintenance and acquisition, training, safety, risk management, financial management, community relations, administration, customer service, and collection operations. Describe the experience for the past five years, and include resumes (maximum 2 pages) for persons in these positions. Provide an organizational flow chart.
11. Provide address and details of offeror's facilities that will house staff and equipment used in the execution of this Service Agreement. Include administrative office, vehicle storage, fueling station, maintenance facility, corporate headquarters (if different from administrative offices).
12. Describe in detail the CNG fueling system that will be used as the primary source of CNG. Discuss whether the system will be on- or off-site, method of fueling (slow vs. fast-fill), financing, contact information for partnering service provider(s) (fueling station and fuel), hours of operation, and if on-site, will it be open to the public. In addition, describe the backup fueling source that will be used in the event the primary is either insufficient to provide fuel or is incapacitated.
13. Describe the detailed work plan including the offeror's schedule of tasks required to provide refuse and recyclable material collections services by the dates specified in the RFP. The work plan must include the period from the execution of a contract until the commencement of collection services, as well as the period after the commencement of service. A detailed timeline must be included.
14. The following equipment is required for fulfillment of services under this contract:

<b>Rear Load Packers (Refuse)</b>	<b>Rear Load Packers (Yard Trim)</b>	<b>Split Body (Recycling)</b>	<b>Scrap Metal</b>	<b>Supervisor Pickups</b>
In-Service = 4	In-Service = 2	In-Service = 4	In-Service = 1	In-Service = 1
Spare = 1	Spare = 1	Spare = 1	Spare = 1	Spare = 1
Total = 5	Total = 3	Total = 5	Total = 2	Total = 2

List the major equipment (in-service and spares) you will use to provide service. The information provided must demonstrate that the equipment will meet the requirements described in the RFP and the Contract. The information shall include such information as the model (chassis and body), fueling system, fuel tank capacity, model year, leased or owned, capacity, quantity, payloads (both in weight and length) for each vehicle; and a detailed sketch of and a general description of how the equipment will interface during operations. Describe normal use and location of all backup equipment. This equipment must be new and not utilized for any purpose other than the fulfillment of the requirements of this contract, except if otherwise approved by the Contract Administrator.

Provide the following chart for all vehicles to be used under this contract.

Chassis Make, Yr & Model	Body Make, Yr & Model	Body Max. Capacity	Total Vehicle (Tare) Weight	Engine Make, Yr & Model	Type of Fuel	Fuel Tank Capacity	Leased or Owned	Quantity to be purchased	Describe Normal Use	Location of Equipment Yard

15. Describe the proposed equipment and operational plans that will be employed to minimize noise and air pollution, and to enhance safety within Montgomery County.
16. Describe your company's plan to reduce your carbon footprint in the provision of services under this Agreement. Discuss routing strategies, alternative fuel, energy efficient vehicles, and any other initiatives you plan to employ.
17. Describe generally how the waste will be collected and transported, normal hours of operation for each major component of the operation, and the major routes to the Designated Disposal Facility, the Designated Recycling Facility, and the Designated Yard Trim Facility.
18. Describe the backup collection and transport system you will use if the primary is incapacitated.
19. List all permits, licenses, and associated fees which will be required.
20. Describe how your company deals with replacement of key personnel who leave.
21. Has your company or any officer or partner of your organization, parent organization, affiliated organization, or persons listed under Item No. 9 above, ever been convicted of any criminal conduct or been found in violation of and state or local or federal statute or regulation, in connection with a solid waste or transportation contract?  
  
If so, state the name of the individual and the circumstances, and discuss how this will affect your company's ability to perform under this Agreement.
22. Yard trim collection requires seasonal adjustments. Explain how your company would meet this need during the peak season.
23. List the days of the week and hours of operation that your business office would be open, and the number of customer service staff that will be on duty to receive phone calls to resolve complaints and handle service inquiries from the County and the residents.
24. Discuss the procedures you will employ to deal with the following:
  - a. Potential problems during the transition
  - b. Procedures to solve transition problems.
  - c. Potential problems with start-up
  - d. Procedures to solve start-up problems

25. Discuss the potential start-up or operational problems that you believe are likely to arise, and explain in detail the methods proposed to deal with them.
  - a. Any necessary changes in collection days
  - b. Procedures to be used to communicate changes in collection days to residents.
26. Estimate the approximate number and type of equipment breakdowns in the first and subsequent years of the contract.
27. Discuss the procedures followed to deal with equipment breakdowns.
28. Discuss the modifications you will make to your maintenance facility to accommodate the CNG vehicles, and discuss your fleet maintenance program – schedule, available resources, etc. for in-service and reserve equipment.
29. Estimate the approximate number of employee absenteeism within the calendar year.
  - a. Field Staff
  - b. Customer Service
  - c. Other
30. Discuss procedures to provide continuity and reliability of service during employee absenteeism (key personnel and collection personnel).
31. Estimate the average amount and type of missed collections and other customer complaints within a calendar year.
32. Discuss procedures to deal with missed collections and other customer complaints.
33. Discuss how your company will provide on-schedule, weekly yard trim collection during the peak season.
  - a. Expected tonnage, travel times, and equipment
  - b. Procedures to be followed to provide on-schedule weekly yard trim collection during peak season.
34. Discuss how your company will provide on-call bulk waste collections.
  - a. Expected tonnage, travel times, and equipment.
  - b. Procedures to be followed to provide on-schedule weekly bulk waste collections.
35. Discuss how your company will provide on-call scrap metal collections.
  - a. Expected tonnage, travel times, and equipment.
  - b. Procedures to be followed to provide on-schedule weekly scrap metal collections.
36. Describe the start-up and on-going training programs you will implement to teach staff basic skills, safety, and the specific requirements of the contract. Provide a schedule of on-going training for all employees.
37. Discuss how you plan to accommodate for the effect over time of uneven growth on route work loads.

38. Identify the routes assigned to each Field Supervisor and the operating procedures for their oversight of collection performance.
39. Discuss any additional assignments each Field Supervisor or Manager would continue to have outside of this Contract, and the percentage of time each Field Supervisor or Manager would be dedicating to this Contract. List all Field Supervisors and Managers assigned to this Contract.
40. Discuss procedures to promptly respond to and resolve problems that are communicated to your company by the County and/or the customers.
41. Discuss your plan to increase residents' participation in and awareness of the County's recycling program.
42. What percentage of your overall business does this contract entail during the term of the Contract?
43. Will acceptance of a contract resulting from this RFP impact your company's performance in other Montgomery County contracts?
44. Is your company currently engaging in discussions with or under contract with jurisdictions or business within 100 miles of Montgomery County that would be performed during the term of this Contract?
  - a. If so, please provide name of jurisdiction or business, name of contact person, phone number, business address.
  - b. Briefly describe the work you will/are perform(ing).
  - c. Dates services are being provided (contract term)
  - d. Contract Number
45. What is the estimated capital you will expend for start-up operations in the performance of this Contract?
46. How will your company meet the start-up and on-going capital requirements of this Contract?

47. WORK PLAN FOR AREA 3.**Refuse and Bulk Waste Collection Service**

Day	Number of Refuse/Bulk Routes	Number of Drivers per Route	Number of Helpers per Route	Approximate number of dwelling units per route	Comments
Monday	4	1	1	698	
Tuesday	4	1	1	698	
Wednesday	4	1	1	698	
Thursday	4	1	1	698	
Friday	4	1	1	698	

**Recyclable Material Collection Service**

Day	Number of Recycling Routes	Number of Drivers per Route	Number of Helpers per Route	Approximate number of dwelling units per route	Comments
Monday	4	1	1	718	
Tuesday	4	1	1	718	
Wednesday	4	1	1	718	
Thursday	4	1	1	718	
Friday	4	1	1	718	

**Yard Trim Collection Service**

Day	Number of Yard Trim Routes	Number of Drivers per Route	Number of Helpers per Route	Approximate number of dwelling Units per route	Comments
Monday	2	1	1	1,436	
Tuesday	2	1	1	1,436	
Wednesday	2	1	1	1,436	
Thursday	2	1	1	1,436	
Friday	2	1	1	1,436	

**Scrap Metal Collection Service (on call)**

Day	Number of Scrap Metal Routes	Number of Drivers per Route	Number of Helpers per Route	Approximate number of dwelling units per route	Comments
Monday	1	1	0	2,872	
Tuesday	1	1	0	2,872	
Wednesday	1	1	0	2,872	
Thursday	1	1	0	2,872	
Friday	1	1	0	2,872	

RFP # 1005672  
**ATTACHMENT K**

EXCLUSIVE RESIDENTIAL COLLECTION SERVICE AGREEMENT



# **EXCLUSIVE RESIDENTIAL COLLECTION SERVICE AGREEMENT**

## **Service Area 3**

By and Between



MONTGOMERY COUNTY, MARYLAND

and

(Insert Contractor Name)

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**EXCLUSIVE RESIDENTIAL  
COLLECTION SERVICE AGREEMENT**

This **“Exclusive Residential Collection Service Agreement**, (the “Agreement”) is made and entered into as of \_\_\_\_\_, 20\_\_\_\_, by and between **Montgomery County**, a political subdivision of the State of Maryland (the “County”), and **(Insert Contractor Name)** (the "Contractor").

**WITNESSETH:**

**WHEREAS**, the County, in exercise of its powers to regulate the health, safety and welfare of its citizens and visitors, has selected Contractor to provide Residential Collection Services to Residential Property within the Service Area; and

**WHEREAS**, Contractor is qualified, willing and able to provide Residential Collection Services to Residential Property in the Service Area;

**NOW THEREFORE**, in consideration of the mutual promises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the County and the Contractor mutually undertake, promise and agree for themselves, their successors and assigns as follows:

**ARTICLE I**  
**DEFINITIONS AND CONSTRUCTION**

**SECTION 1.01. DEFINITIONS.**

For purposes of this Agreement, the capitalized words and shall have the following meanings unless a different meaning clearly appears from the context:

**“Agreement”** - this Exclusive Residential Collection Service Agreement. The term also means “the Contract”.

**“Agreement Anniversary”** - the annual anniversary of the Agreement Commencement. The Agreement Anniversary date shall be June 4.

**“Agreement Commencement”** - the date upon which Contractor commences Residential Collection Services. The Agreement Commencement date shall be June 4, 2012.

**“Agreement Execution”** - the date upon which the County signs and thereby executes the Agreement.

**“Biomedical Waste”** - any solid waste or liquid residue which may present a threat of infection to humans. The term “Biomedical Waste” includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility. The term “Biomedical Waste” does not include human remains that are disposed of by persons licensed under COMAR Section 10.29.02.06

**“Building”** - any structure, whether temporary or permanent, built for the support, shelter or enclosure of persons, chattel or property of any kind.

**“Bulk Items”** - items that cannot fit into a Standard Container and require special handling and management because of their volume, e.g., White Goods, large household goods, furniture, and items resulting from minor home improvement projects e.g. a door, sink, and toilet. Bulk Items must have been previously used by the customer at the Dwelling Unit for which Collection Service is provided. The term Bulk Items excludes Exempt Waste.

**“Collection Service”** - Residential Refuse Collection Service, Residential Recyclable Material Collection Service, Scrap Metal Collection Service, and Yard Trim Collection Service.

**“COMAR”** - the Code of Maryland Regulations.

**“Commingled Recyclable Material”**- Recovered Materials designated by the County as acceptable for recycling. Initially those materials include, but are not limited to #1 through #7 plastic containers and lids (all colors), aluminum containers, steel and bimetal containers, aerosol cans, glass bottles and jars (green, clear, and brown), aluminum foil, and aluminum bakeware.

**“Consumer Price Index (CPI)”** - measure of the average price of consumer goods and services for all urban consumers issued for the Washington-Baltimore, DC-MD-VA-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS.

**“Contaminant”** - any item placed in Recycling Containers other than Recyclable Materials.

**“Contractor”** - (Insert Contractor Name)

**“Contract Administrator”** - the individual designated by the Director, Department of General Services to represent the County in the administration, supervision and execution of the Agreement. The Contract Administrator is Robin D. Ennis, Chief, Collection Section, Division of Solid Waste Services, Department of Environmental Protection.

**“County”** - Montgomery County, Maryland.

**“Curbside”** - a location that is (A) within ten (10) feet of the curb, (B) within ten (10) feet of the roadway if there is no curb, (C) within ten (10) feet of the closest accessible right-of-way,

(D) adjacent to the front or side of the building for Dwelling Units receiving Exempt Service, or

(E) any other outside location designated by the Contract Administrator that will provide a safe and efficient collection point for Contractor's crew and vehicle, and is accessible to the Resident. Such location shall be absent the presence of hazards or threatening or dangerous situations, dogs or other animals.

**“Customer List”** - separate listings of billing names and addresses for all Dwelling Units within the Service Area to which Contractor is providing Residential Refuse Collection Service and Recyclable Material Collection Service.

**“Designated Disposal Facility”** - the place or places specifically designated by the County for the disposal of Residential Refuse. The facility initially designated shall be the County Transfer Station located at the Intersection of Route 355 and Shady Grove Road.

**“Designated Recycling Facility”** - the place or places specifically designated by the County for the processing and marketing of Residential Recyclables. The facility initially designated shall be the County's Materials Recovery Facility (MRF) located 16101 Frederick Road, Derwood, MD 20855.

**“Designated Yard Trim Recycling Facility”** - the place or places specifically designated by the County for the processing of Yard Trim. The facility initially designated by the County shall be Transfer Station located at 16101 Frederick Road, Derwood, MD 20855.

**“Duplex”** - a Building that contains two Dwelling Units.

**“Dwelling Unit”** - a Building, or a portion thereof, lawfully used for Residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

**“Exempt Service”** - Side Door collection service that is provided by the Contractor at no additional charge to a Resident who, due to physical limitations, is unable to place their Containers Curbside for collection.

**“Exempt Waste”** - Biological Waste, Biomedical Waste, Hazardous Waste, lead acid batteries, used oil, and any material not accepted by the County for collection as defined in this Agreement. Metal vehicle parts weighing sixty (60) pounds or less each are not Exempt Waste.

**“Fiscal Year”** - that period beginning July 1st of each year and ending on June 30th of the subsequent year.

**“Garbage”** - all putrescible waste which generally includes, but is not limited to, kitchen and table food waste, vegetative, food or any organic waste that is attendant with, or results from the storage, preparation, cooking or handling of food material.

**“Hazardous Waste”** - solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

**“Household Waste”** - Garbage, Refuse and Rubbish generated by a Dwelling Unit for which Collection Service is provided hereunder. The term “Household Waste” does not include Exempt Waste or Bulk Items.

**“Improved Property”** - all property within the County on which a Building or other improvements including, but not limited to, facilities providing retail electrical service to such property have been placed or constructed, which improvements result in such property generating Residential Refuse or being capable of generating Residential Refuse.

**“Irrevocable Letter of Credit”** - the letter of credit provided by the Contractor to the County pursuant to SECTION 6.14 of this Agreement.

**“Key Personnel”** - Contractor’s employees who serve an integral part of the management and administration of the service provided under this Agreement. Such employees include, but are



not limited to the Chairman of the Board, President, CEO, Vice President, General Manager, Regional Manager, Operations Manager, Field Supervisors, and all other management related staff. Such individuals shall have decision making authority, and can act on behalf of the Contractor in the administration of this Agreement.

**“Mixed Paper Recyclables”** - those paper materials designated by the County as acceptable for recycling. Initially those materials include, but are not limited to newspaper and inserts, magazines, hard and soft cover books, corrugated boxes, paperboard, paper bags, kraft bags, telephone directories, catalogs, office and computer paper, boxboard, paper from home-based businesses, shredded paper, non-metallic wrapping paper, discarded mail, and other similar paper products.

**“Performance Bond”** - the performance bond provided by the Contractor to the County pursuant to SECTION 6.14 of this Agreement.

**“Price Adjustment”** - shall be the lesser of the CPI in effect on the Anniversary Date, or the percentage of change in the Contractor’s approved expenses during the twelve months prior to the Anniversary Date pursuant to SECTION 6.11 of this Agreement.

**“Public Entity Crime”** - a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Maryland or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or agreement for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

**“Recovered Material”** - metal, paper, glass, plastic, textile, rubber or other materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials,

whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal.

**“Recyclable Material”** - those Recovered Materials designated by the County which are capable of being recycled and which would otherwise be processed or disposed of as Household Waste. The materials initially designated by the County, but are not limited to Commingled Recyclable Material and Mixed Paper Recyclables. Yard Trim and Scrap Metal are deemed Recyclable Materials, but for collection purposes, are defined separately herein.

**“Recycling Bin”** - one (1) or more bin suitable for temporary storage of Commingled Recyclable Material that is provided to each Dwelling Unit by the County. Paper bags and cardboard boxes may be used by Residents as a Recycling Bin.

**“Recycling Cart”** - one or more wheeled carts suitable for temporary storage of Paper Recyclables that is provided to each Dwelling Unit by the County. Paper bags, cardboard boxes, and bundles of mixed paper tied with twine may be used by Residents as a Recycling Cart.

**“Recycling Containers”** - Recycling Bins and Recycling Carts.

**“Refuse”** - Rubbish, Garbage, and Bulk Waste.

**“Rejection Tag”** - a brightly colored adhesive notice provided to the Contractor by the County to inform the Resident of the reason their Residential Refuse or Recyclable Material was not collected, and the necessary corrective action.

**“Replacement Contractor”** - the contractor selected pursuant to the Montgomery County Procurement Regulations after an emergency procurement to fulfill the remaining term of this Agreement.

**“Resident”** - any person residing in a Dwelling Unit in the Service Area.

**“Residential Bulk Waste Collection Component”** - the fee for providing Residential Bulk Waste Collection Service to a Dwelling Unit, which shall be \$\_\_\_\_\_ per month for Dwelling Units located in the Service Area.

**“Residential Collection Services”** - Residential Refuse Collection Service, Residential Recyclable Material Collection Service, Residential Yard Trim Collection Service, and Residential Scrap Metal Collection Service.

**“Residential Property”** - single family Dwelling Units, and multi-family buildings with six (6) or fewer Dwelling Units in the Service Area.

**“Residential Recyclable Material Collection Component”** - the fee for providing Residential Recyclable Material Collection Service to a Dwelling Unit, which shall be \$\_\_\_\_\_ per month for Dwelling Units located in the Service Area

**“Residential Recyclable Material Collection Service”** - the process whereby Recyclable Materials are removed from a Dwelling Unit by the Contractor and delivered to the Designated Recycling Facility.

**“Residential Refuse”** - Household Waste and Bulk Items.

**“Residential Refuse Collection Component”** - the fee for providing Residential Refuse Collection Service to a Dwelling Unit, which shall be \$\_\_\_\_\_per month for Dwelling Units located in the Service Area.

**“Residential Refuse Collection Service”** - the process whereby Residential Refuse is removed from a Dwelling Unit and transported to a Designated Disposal Facility.

**“Residential Scrap Metal Collection Service”** - the process whereby Residential Scrap Metal is removed from a Dwelling Unit and transported to a Designated Recycling Facility.

**“Residential Scrap Metal Collection Component”** - the fee for providing Residential Scrap Metal Collection Service to a Dwelling Unit, which shall be \$\_\_\_\_\_ per month for Dwelling Units located in the Service Area.

**“Residential Yard Trim Collection Component”** - the fee for providing Residential Yard Trim Collection Service to a Dwelling Unit, which shall be \$\_\_\_\_\_ per month for Dwelling Units located in the Service Area.

**“Residential Yard Trim Collection Service”** - the process whereby Residential Yard Trim is removed from a Dwelling Unit and transported to a Designated Recycling Facility.

**“Route”** - the area served by a single truck and crew in one Service Day.

**“Rubbish”** - all refuse, rags, sweep-ups and all other accumulations of a nature other than Garbage, which are usual to housekeeping.

**“Scrap Metal”** - any item that is placed Curbside for collection whose composition is more than 50% ferrous or non-ferrous metal. Examples include but not limited to major household appliances (White Goods), metal fencing, lawn mowers, and swing sets. Vehicle parts each weighing sixty (60) pounds or less are included.

**“Service Area”** - that portion of the unincorporated area of the County described in Appendix A.

**“Service Area Fee”** - the sum of the Residential Refuse Collection Component, the Bulk Waste Collection Component, the Recyclable Material Collection Component, the Yard Trim Collection Component, and the Scrap Metal Collection Component. The Service Area Fee is \$\_\_\_\_\_ per Dwelling Unit per Month.

**“Service Day”** - the day of the week on which once per week Collection Services are provided. Unless otherwise directed by the Contract Administrator, all Collection Services for each Dwelling Unit shall be provided on the same day of the week.

**“Side Door”** - a location at the side, front, or immediately adjacent to Residential Property that has been approved by the Contract Administrator as an alternative to Curbside.

**“Single-Family Residence”** - a Building that contains a single Dwelling Unit.

**“Solid Waste”** - as defined in COMAR 26.13.02.02, any discarded material that is not excluded herein, or that is not excluded by a variance granted under COMAR 26.13.01.04D and E; garbage, rubbish, refuse, Special Waste or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agriculture, or governmental operations. The term does not include Hazardous Waste or Recovered Materials.

**“Standard Container”** - any commonly available light gauge steel, plastic, or galvanized water tight receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted water tight top or lid and handle(s), or for Household Waste only, a heavy duty, securely tied, plastic bag designed for use as a garbage receptacle. A cardboard box containing Household Waste or Yard Trim may be used as a Standard Container. A Standard Container shall not exceed forty-five (45) gallons in capacity or sixty (60) pounds in weight. Containers larger than forty-five (45) gallons can be used as a storage area for Household Waste if the contents are contained in plastic bags each weighing sixty (60) pounds or less.

**“Temporary Contractor”** - the contractor(s) selected to temporarily fulfill the Collection Services pursuant to this Agreement after default by the Contractor and prior to an emergency procurement by the County.

**“Tipping Fee”** - the disposal fee at the Designated Disposal Facility for Solid Waste expressed in dollars per ton.

**“White Goods”** - discarded refrigerators, ranges, water heaters, freezers, and other similar domestic appliances that were previously used at the Dwelling Unit from which they are collected.

**“Yard Trim”** - vegetative matter resulting from yard and landscape maintenance.

**SECTION 1.02. CONSTRUCTION AND INTERPRETATION.**

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Agreement; the term "heretofore" shall mean before the date of adoption of this Agreement; and the term "hereafter" shall mean after the initial date of adoption of this Agreement.

(B) No provision of this Agreement is to be interpreted as a penalty upon any party to this Agreement. The parties hereby agree that the rights of the County in the event Contractor takes or fails to take certain actions pursuant to this Agreement, are reasonable, and that the parties desire such certainty with regard to such matters.

(C) This Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Agreement.

**SECTION 1.03. SECTION HEADINGS.**

Any headings preceding the texts of several Articles and Sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

## **ARTICLE II**

### **REPRESENTATIONS**

#### **SECTION 2.01. REPRESENTATIONS OF THE COUNTY.**

The County makes the following representations as the basis for the undertakings on the part of Contractor herein contained:

(A) The County is duly organized and validly existing as a political subdivision of the State of Maryland.

(B) The County has full power and authority to enter into the transactions contemplated by this Agreement.

#### **SECTION 2.02. REPRESENTATIONS OF CONTRACTOR.**

Contractor makes the following representations as the basis for the undertakings on the part of the County herein contained:

(A) Contractor is duly organized, lawfully existing and in good standing under the laws of the State of Maryland, authorized to do business in the State of Maryland, and Montgomery County, and has all requisite corporate power and authority to enter into and fully perform this Agreement. All necessary corporate action on the part of Contractor relating to the authorization of its execution and delivery of this Agreement and its performance of its duties and obligations contained herein have been duly taken, and this Agreement, when executed and delivered, will be valid and enforceable against Contractor in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity.

(B) There are no actions, suits or proceedings pending or, to the knowledge of Contractor, threatened against or affecting Contractor, at law or in equity or before or by any Federal, state, municipal or other governmental department, commission, board, council, bureau, agency or

instrumentality wherein an unfavorable decision, ruling or finding would adversely affect the validity of this Agreement or any agreement or instrument to which Contractor is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby.

(C) Contractor is willing, ready and able to fully perform the duties and obligations contained herein.



## **ARTICLE III**

### **RESIDENTIAL REFUSE COLLECTION SERVICE**

#### **SECTION 3.01. GENERAL DESCRIPTION.**

(A) Contractor must provide Residential Refuse Collection Service to all Residential Property located within the Service Area. The estimated number of Dwelling Units in the Service Area is 14,360. The Contractor and the County agree that the number of Dwelling Units is an estimate, and is subject to change due to construction, demolition, or transfer into or out of the Service Area. The Contractor must provide or discontinue Residential Collection Services to these Dwelling Units upon notification by the County. Such notification must be provided as soon as practical, but no less than thirty (30) days prior to commencement or discontinuation of service. Notice of newly constructed homes shall be provided by the County at the end of each calendar quarter. Collection services to new Dwelling Units in the Service Area must be provided as defined herein, and at the same per unit rate that is in effect at the time notice is given by the County to the Contractor.

(B) Adjustments to Service Area boundaries due to municipal annexation or contraction shall be as provided by COMAR, Section 14.24.04.02(D)(1).

(C) The County shall provide or identify one or more Designated Disposal Facilities at all times. All Residential Refuse collected by Contractor must be delivered to a Designated Disposal Facility, and the applicable disposal charge shall be paid by the County. If Contractor delivers Residential Refuse to any facility other than a Designated Disposal Facility, Contractor must pay to the County, as liquidated damages and in addition to any other remedy available to the County pursuant to this Agreement, an amount equal to three times the Tipping Fee that would have been paid if such Residential Refuse had been delivered to a Designated Disposal Facility.

(D) Contractor is subject to all laws, rules and regulations applicable to Residential Refuse Collection Service as adopted by the County. This Agreement does not and shall not be construed to

relieve Contractor from any obligation to address any permit, condition, term, approval or restriction and shall not relieve Contractor, or its successors, of the obligation to comply with any law, ordinance, rule or regulation governing said permitting requirements, terms, approvals or restrictions.

(E) Contractor must not suspend or terminate Residential Collection Service to any Dwelling Unit for any reason, without prior written authorization by the Contract Administrator.

(F) Information regarding Collection Services may be disseminated to Residents that may differ from the requirements of this Agreement. The terms and conditions of this Agreement shall govern the requirements of the Contractor.

### **SECTION 3.02. COLLECTION OF HOUSEHOLD WASTE.**

(A) Household Waste will be placed in Standard Containers and placed at Curbside prior to 7:00 a.m. on the Service Day. Household Waste will not be mixed in the same Standard Container as Yard Trim. All Household Waste shall be properly containerized in Standard Containers and placed at Curbside. No filled Standard Container or individual item shall exceed sixty (60) pounds in weight or forty-five (45) gallons in capacity.

(B) Contractor agrees to collect a maximum of two (2) Standard Containers containing debris from minor home repair or renovation projects from Dwelling Units each Service Day in the Service Area.

(C) Subject to the holiday provisions set forth in SECTION 6.04 hereof, one weekly Household Waste Service Day will be scheduled for Residential Property in the Service Area. On April 4, 2012 Contractor must deliver a detailed Route schedule (including maps) to the Contract Administrator. Revised Route schedules and maps must be provided not less than sixty (60) days prior to any change.

(D) All Standard Containers placed at Curbside must be emptied and all plastic bags and individual items placed at Curbside must be removed by Contractor. Other than plastic bags and

cardboard boxes, each Standard Container must be opened, emptied at truck-side, and left at the same point it was collected in an upright position with any detachable lid placed upside down on the top of the Standard Container. Standard Containers without lids must be returned in an upside down position. No Standard Container shall be left in a driveway, designated parking space, ditch, adjacent to a mailbox, or public right-of-way or roadway.

(E) Exempt Waste or Standard Containers holding Exempt Waste may be left at Curbside by Contractor. Contractor must complete and attach a Rejection Tag explaining why the Exempt Waste or Standard Container was not serviced. Contractor must radio the County immediately upon issuance of a Rejection Tag.

(F) Contractor must collect organic waste such as fecal matter, small dead animals, and any other potentially noxious organic waste, provided Resident wraps organic waste in a manner that protects Contractor from its noxious effects.

(G) Contractor must complete and attach a Rejection Tag to any Standard Container, Exempt Waste, or Bulk Item that is not acceptable for collection, and thereby not serviced by the Contractor. Contractor must immediately radio the County upon the issuance of a Rejection Tag.

### **SECTION 3.03. COLLECTION OF BULK ITEMS.**

(A) Collection Service must be provided for all Bulk Items generated in the normal course of use at the Dwelling Unit for which Residential Refuse Collection Service is provided. No additional charge shall be made for the collection of Bulk Items. Bulk waste must be picked up in the same manner, vehicle and schedule as other Household Waste.

(B) At the sole discretion of the County, the collection of Bulk Items may be scheduled in advance. If scheduled, by 1 p.m. on the business day prior to collection service, the County shall provide the Contractor with a list of Dwelling Units to receive collection service for Bulk Items.

#### **SECTION 3.04. SIDE DOOR (EXEMPT) COLLECTION SERVICE.**

(A) Contractor must provide Side Door Collection Service for Household Waste and Recyclable Materials to Dwelling Units if all adult occupants residing therein are disabled, and if a request for Side Door service has been made to and approved by the Contract Administrator. Such Dwelling Units shall receive Side Door Service at no additional charge by the Contractor or the County.

(B) The Contract Administrator shall notify the Contractor in writing of all Dwelling Units to receive Side Door service. Except for the service location, all other provisions of this Agreement shall apply to Side Door collection service. Collection service for Yard Trim, Scrap Metal and Bulk Items must be provided at Curbside.

#### **SECTION 3.05. MANNER OF COLLECTION.**

(A) Contractor is subject to all Federal, State, and local laws, rules and regulations.

(B) Contractor must provide Collection Services to Residential Property with as little disturbance as possible, and unless otherwise approved in advance by the Contract Administrator, in the same sequence and manner each Service Day. All Standard Containers placed at Curbside must be emptied and all plastic bags and individual items placed at Curbside must be removed by Contractor. Standard Containers, except plastic bags and cardboard boxes, must be returned to the point of collection, and must not obstruct a mailbox, sidewalk, parking space, roadway, driveway, or right-of-way. Contractor must place all emptied Standard Containers upright with any detachable lid on top in an upside down position. Standard Containers without lids must be returned upside down.

(C) A Standard Container damaged by Contractor must be replaced or repaired promptly by Contractor. Contractor must notify the Contract Administrator of any damaged Standard Containers. Any property of others damaged by Contractor must be repaired or replaced to the satisfaction of the Contract Administrator. Contractor must not litter or cause any spillage to occur

upon the premises, roadway, parking lot, or the right-of-way wherein the collection and hauling shall occur.

(D) During collection, loading and hauling of Residential Refuse and Recyclable Material, Contractor must use care to minimize the spillage or scattering of material. During collection, loading and hauling of Recyclable Material, Contractor must use care and minimal compaction to minimize the breakage of glass. During hauling, all Residential Refuse and Recyclable Material shall be contained, tied, taped, or enclosed so that leaking, spilling, and blowing is prevented. In the event of any spillage or scattering of material, the Contractor must promptly clean up the affected area. Residential Refuse and Recyclable Materials must be inside the collection vehicle during transport.

(E) The Contractor must not collect appliances that contain chemical refrigerants, chlorofluorocarbons (CFCs), or hydrochlorofluorocarbons (HCFCs) in a rear load collection vehicle or other packer-type vehicle that would crush or break the appliance. The Contractor must handle such appliances in a manner that prevents damage to the coolant systems that would allow the escape of CFCs, HCFCs, or other chemical refrigerants into the atmosphere.

(F) Contractor must adhere to all traffic and safety rules and laws at all times. At no time shall a vehicle cross the center line of a street or roadway. Private driveways must not be used for turnarounds. Vehicles used in the performance of this Agreement must be duly licensed and registered with the State of Maryland and Montgomery County, and adhere to the provisions set forth in Chapter 48 of the Montgomery County Code.

(G) Contractor must accept Residential Refuse, Recyclable Material, Scrap Metal, and Yard Trim brought to the collection vehicle by Residents as the vehicle passes their Dwelling Unit. If a Resident places material Curbside after the Contractor passes, and the Contractor again passes the Dwelling Unit (such as on a cul-de-sac or dead end road), the Contractor must stop and provide Collection Service. Habitually late set-outs must be reported to the Contract Administrator.

(H) Contractor must not commingle Residential Refuse, Scrap Metal, Yard Trim, or Recyclable Material.

**SECTION 3.06. HAZARDOUS WASTE.**

Contractor is not required to collect and dispose of Hazardous Waste under this Agreement. All such collection and disposal of Hazardous Waste are not regulated under this Agreement, unless and until a separate agreement is entered into by and between the County and Contractor.

**ARTICLE IV**  
**RESIDENTIAL RECYCLABLE MATERIAL COLLECTION SERVICE,**  
**SCRAP METAL COLLECTION SERVICE, AND YARD TRIM COLLECTION**  
**SERVICE**

**SECTION 4.01. RESIDENTIAL RECYCLABLE MATERIAL COLLECTION SERVICE.**

(A) Contractor must provide Collection Service for Recyclable Material from all Residential Property located within in the Service Area. Within the Service Area, the charge for Residential Recyclable Material Collection Service shall be billed and collected by the County.

(B) Subject to the holiday provisions set forth in SECTION 6.04, one weekly Recyclable Material Service Day will be scheduled for Residential Property located within the Service Area. The Recyclable Material Service Day will coincide with the Household Waste Service Day. On or prior to April 4, 2012, Contractor must deliver a detailed Route schedule (including maps) to the Contract Administrator. Revised Route schedules and maps must be provided not less than sixty (60) days prior to any change.

(C) All Recyclable Material to be collected from Residential Property must be in approved Recycling Containers placed at Curbside.

(D) Recycling Containers containing Contaminants must be serviced by the Contractor. The Recyclable Materials must be collected by the Contractor, the Contaminants returned to the Recycling Container, and a completed Rejection Tag placed inside the Recycling Bin or attached to the Recycling Cart. Contractor must immediately radio the County upon the issuance of a Rejection Tag.

(E) The County retains ownership of all Recyclable Materials collected and transported by the Contractor.

(F) Recyclable Material collected and transported by the Contractor must be delivered to the County Designated Recycling Facility. The transportation by the Contractor of Recyclable Material to a facility other than the County Designated Recycling Facility is prohibited, unless approved in writing by the Contract Administrator.

(G) To minimize the volume of Contaminants, the Contractor must sufficiently train their collection crews to know which materials are and are not accepted by the County. Loads of Recyclable Material delivered by the Contractor to the County Designated Recycling Facility must not contain unreasonable levels of contaminants as defined by the Contract Administrator. Loads of Recyclable Materials containing levels of Contaminants that exceed these levels shall be subject to rejection at the County Designated Recycling Facility. Rejected loads must be transported to the County Designated Disposal Facility, and a tipping fee shall be charged to the Contractor for the entire load.

#### **SECTION 4.02. RECYCLING CONTAINERS.**

(A) The County, at its own expense, shall provide Recycling Containers to Dwelling Units in the Service Area.

(B) Title to the Recycling Containers resides with the County at all times.

(C) The County shall replace, at its own expense, any Recycling Container that is lost, rendered unserviceable through normal wear and tear of collection services. Recycling Containers that have been damaged through the fault or negligence of the Contractor or its employees shall be replaced by the County, and the Contractor must reimburse the County for the cost. The cost of such replacement Recycling Containers shall be deducted from the Contractor's monthly compensation.

#### **SECTION 4.03. MANNER OF COLLECTION.**

Contractor must collect Recyclable Material with as little disturbance as possible and must leave the Recycling Containers at the same point they were collected.



(A) Recycling Bins must be returned in an upside down position, except those that have been tagged for Contaminants, and returned in an upright position. Recycling Bins must be placed, not thrown by Contractor.

(B) Recycling Carts must be returned in an upright position, lid closed, and handle facing the roadway.

(C) Paper bags or cardboard boxes used as Recycling Containers and must be collected as Mixed Paper.

(D) Contractor must collect cardboard boxes that are broken down, cut and flattened, or left whole. Mixed paper must be collected if bundled and tied with string. No bundle shall exceed sixty (60) pounds in weight.

(E) To be eligible for pick-up, Recyclable Material must be placed in Recycling Containers and the Recycling Containers must be placed at the usual accessible pick-up location.

(F) The Contractor must not dispose collected Recyclable Material as solid waste.

#### **SECTION 4.04. MARKETING RECYCLABLE MATERIAL.**

The County shall be responsible for processing and marketing all Recyclable Material collected by the Contractor.

#### **SECTION 4.05 TITLE TO RECYCLABLE MATERIAL, SCRAP METAL, AND YARD TRIM.**

The County shall at all time hold title and ownership to all Recyclable Material, Yard Trim, and Scrap Metal located at Curbside and collected by Contractor pursuant to this Agreement.

#### **SECTION 4.06. REVENUE FROM SALE OF RECYCLABLE MATERIAL.**

The County shall at all times hold title and ownership to all Recyclable Material collected by Contractor pursuant to this Agreement and shall retain the revenues obtained from its sale of Recyclable Material.

#### **SECTION 4.07. COLLECTION OF YARD TRIM.**

(A) Contractor must provide Collection Service for Yard Trim from all Residential Property located within in the Service Area. Within the Service Area, the charge for Residential Yard Trim Collection Service shall be billed and collected by the County.

(B) Subject to the holiday provisions set forth in SECTION 6.04, one weekly Yard Trim Service Day must be scheduled for Residential Property located within the Service Area. The Yard Trim Service Day must coincide with the Household Waste Service Day. On or prior to April 4, 2012, Contractor must deliver a detailed Route schedule (including maps) to the Contract Administrator. Revised Route schedules and maps must be provided not less than sixty (60) days prior to any change.

(C) Yard Trim collected and transported by the Contractor must be delivered to the County Designated Yard Trim Facility. The transportation by the Contractor of Yard Trim to a facility other than the County Designated Recycling Facility is prohibited, unless approved in writing by the Contract Administrator.

(D) Yard Trim shall be placed in Standard Containers (except plastic bags), heavy duty paper bags, cardboard boxes, or separately at Curbside prior to 7:00 a.m. on the Service Day. All Yard Trim generated by Residential Property shall be prepared for collection as follows:

1. All stumps, trees, and limbs shall be cut into lengths no longer than six (6) feet, and no more than four (4) inches in diameter. Limbs shall be bundled and tied. Bundles of limbs, trees, and stumps must be in manageable piles. No single stump, tree, or limb shall exceed sixty (60) pounds in weight.
2. All grass clippings, leaves, and similar small vegetative debris shall be placed in Standard Containers (except plastic bags), heavy duty paper bags, or cardboard boxes, which shall not exceed sixty (60) pounds each.

3. Yard Trim must not be mixed in the same Standard Container with Household Waste, and must not be collected together.
4. Christmas Trees must be collected as Yard Trim, but must be collected whole, and are exempt from the provisions in SECTION 4.07.
5. Each Standard Container must be opened, emptied at truck-side, and left at the same point it was collected in an upright position with any detachable lid placed upside down on the top of the Standard Container. Standard Containers without lids must be returned upside down. No Standard Container shall be left in a driveway, ditch, designated parking space, right-of-way, or public roadway.

(E) Contractor must not knowingly commingle Yard Trim with Household Waste or Recyclable Material.

(F) Yard Trim must not be collected in plastic bags or Recycling Containers (except cardboard boxes and paper bags).

(G) Contractor must place a Rejection Tag on any Yard Trim that has not been properly prepared by the Resident, and therefore not serviced by the Contractor. Contractor must immediately notify the County of the issuance of a Rejection Tag.

(H) Contractor and County agree that the quantity of Yard Trim will vary seasonally. Contractor agrees to provide sufficient equipment and personnel to collect all Yard Trim placed at Curbside on the Service Day.

#### **SECTION 4.08      COLLECTION OF SCRAP METAL.**

(A) Contractor must provide Collection Service for Scrap Metal from all Dwelling Units located within in the Service Area. The charge for Residential Scrap Metal Collection Service within the Service Area shall be billed and collected by the County.

(B) On the day prior to collection service, the County shall provide the Contractor with a list of Dwelling Units to receive Scrap Metal Collection Services by 1 p.m. on the day before collection service.

(C) Subject to the holiday provisions set forth in SECTION 6.04, one weekly Scrap Metal Service Day must be scheduled for Dwelling Units located within the Service Area. The Scrap Metal Service Day must coincide with the Household Waste Service Day. On or before April 4, 2012, Contractor must deliver a detailed Route schedule (including maps) to the Contract Administrator. Revised Route schedules and maps must be provided not less than sixty (60) days prior to any change.

(D) Scrap Metal collected and transported by the Contractor must be delivered to the County Designated Recycling Facility. The transportation by the Contractor of Scrap Metal to a facility other than the County Designated Recycling Facility is prohibited, unless approved in writing by the Contract Administrator.

(E) Scrap Metal need not be containerized when placed at Curbside. Scrap Metal shall be placed at Curbside prior to 7:00 a.m. on the Service Day.

(F) The Contractor must place a Rejection Tag on any Scrap Metal that is not properly prepared by the Resident, and therefore not serviced by the Contractor. Contractor must immediately notify the County of the issuance of a Rejection Tag.

## **ARTICLE V**

### **FEEES, BILLING AND COLLECTION**

#### **SECTION 5.01. SERVICE AREA FEES.**

Unless otherwise specified in this Agreement, the County shall bill and collect all fees related to services provided by the Contractor. Contractor is not authorized to bill or collect fees from Property Owners or Residents of Dwelling Units for services provided under this Agreement.

#### **SECTION 5.02. RESIDENTIAL BILLING, COLLECTION AND PAYMENTS.**

The County shall be responsible for the billing and collection of Service Area Fees. Property Owners shall be billed as part of their annual property tax bill.

## **ARTICLE VI**

### **OPERATIONS**

#### **SECTION 6.01. OFFICE.**

(A) Contractor must maintain an office equipped with sufficient telephones, and must have a responsible person in charge during collection hours, and at a minimum, must be open during normal business hours, 7:00 a.m. to 5:00 p.m. Monday through Friday and at all other times that service is being provided. All telephone numbers used by Contractor must allow for toll free use for any call originating within the County. Any call received after hours must be recorded electronically and returned prior to noon of the next business day.

(B) The Contractor must install and maintain a computer with internet connection, a facsimile machine, a telephone land line, a two-way radio/telephone system compatible with that used by the County, an email account, and a telephone answering system, all with local telephone numbers; each to be used solely for communication between the Contract Administrator and the Contractor.

(C) The Contractor must allow the County to inspect and copy all records, papers, letters, or other documents, during normal business hours, related to the Contractor's performance of this Agreement.

(D) The Contract Administrator may serve, and the Contractor must accept, any notice or complaint to or against the Contractor by delivering the same to the Contractor's local office by telephone, facsimile machine, email, or in person; or by mailing the same by regular first-class mail addressed to the Contractor at its local office.

## **SECTION 6.02. COLLECTION SCHEDULE.**

(A) The Contractor must provide weekly Collection Services to all Dwelling Units in the Service Area. The schedule for these services is defined in Appendix D. Except for Holidays as defined below in SECTION 6.04, all collection services must be provided consistently on the same day of the week, and schedules cannot be changed by the Contractor. Any requests for change to the collection schedule are subject to the approval of the Contract Administrator. Such request must be submitted in writing by the Contractor. The Contract Administrator may make schedule and Route changes with prior written notice to the Contractor.

(B) The Contractor must not interrupt the regular schedule and quality of service due to roadway repairs or closures. The Contractor may suspend collection service only with prior written approval of the Contract Administrator.

(C) Collection Services must be provided beginning at 7:00 a.m. and ending no later than 9:00 p.m. Monday through Friday. The days and hours of Collection Service may be extended due to extraordinary circumstances or conditions at the direction of or with the prior consent of the Contract Administrator.

## **SECTION 6.03. COLLECTION ROUTES.**

(A) Contractor must provide the Contract Administrator, in a format acceptable to the Contract Administrator, the schedules of all Routes for Collection Services and keep such information current at all times. No changes to the collection Routes are permitted, including start, mid, and end points and times, without prior written approval of the Contract Administrator. The Contractor must use equipment and routing strategies to minimize the time and distance traveled by each collection vehicle each day. On or before April 4, 2012, the Contractor must submit to the Contract Administrator, a detailed Route schedule for each type of collection that identifies the start, mid and end points of each Route, and a list of all addresses to be served on each Route in the

Service Area. All Routes and schedules are subject to approval and change by the Contract Administrator. All Routes must conform to the days of collection defined in Appendix A.

(B) All Routes must begin at the designated start point and continue to the designated end point. If the collection vehicle must temporarily interrupt service, the driver must resume collection services at the exact point the route was interrupted, and continue on the designated Route until its completion.

#### **SECTION 6.04. HOLIDAYS.**

(A) From May 9, 2011 to June 11, 2012 the following will be holidays for the Contractor, and no services will be provided: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(B) From June 12, 2012 until the termination of this Agreement, the following will be holidays for the Contractor, and no services will be provided: New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

(C) Residential Collection Services not provided due to a holiday must be provided on the day immediately following the holiday. All collection days immediately following a holiday shall "slide" forward one day, with Friday's collection services being provided on Saturday. Except for the week after Christmas, normal collection schedules must resume the week immediately following a holiday.

(D) Holidays that occur on Saturday or Sunday shall not alter regular collection schedules.

#### **SECTION 6.05. INCLEMENT WEATHER, STORMS, OR NATURAL OR MAN MADE DISASTERS.**

(A) In the event of inclement weather, a storm, or a natural or man made disaster occurring in the Service Area, Contractor must do all work as required by the Agreement and the Contract



Administrator within the Service Area. All equipment and personnel of the Contractor or its subsidiaries or affiliates, must be available to the County in the event of a storm, natural or man made disaster. If such equipment is not available, Contractor and its subsidiaries and affiliates must procure sufficient equipment and personnel from outside the affected area to provide services as defined in this Agreement. If Contractor or its subsidiaries or affiliates provide service to other jurisdictions affected by the same storm, man made or natural disaster, provision of those services must not preclude the Contractor from providing services as defined in this Agreement. In the event the Contract Administrator requires services beyond what is required of the Contractor pursuant to this Agreement, and considering any reduction of regular service during such disaster, Contractor shall receive additional compensation above the normal compensation contained in this Agreement to cover documented actual costs for such extra services provided by Contractor, provided Contractor has first secured written authorization and approval from the Contract Administrator. The extra compensation shall be reasonable, and if Contractor and Contract Administrator cannot agree on the amount of additional compensation, the Chief, Division of Solid Waste Services shall make the final determination. Contractor must provide the emergency services immediately upon request and the fact that the extra compensation has not been determined must not delay the provision of service. In the event the Contractor and the County cannot agree on the terms of such extra services, the County shall procure the services of another contractor.

(B) The County may suspend Collection Services due to inclement weather, natural or man made disasters or other emergencies. If collection service is suspended by the County, the Contractor must resume Collection Service within two (2) hours of notice from the Contract Administrator. The Collection Service must resume at the point of suspension and continue until the Route is complete, and at the sole discretion of the Contract Administrator, providing service until 9 p.m. and/or on Saturday and Sunday if necessary. One day of suspended service will be subject to the “slide” schedule that is implemented for Holidays and defined in SECTION 6.04

above. If service is suspended for two (2) days, the Contractor must resume service at the point of suspension and continue until all service for the week is complete. For more than two days of suspended service, the Contract Administrator shall, based on weather and road conditions, determine the appropriate schedule to resume service including implementing a Holiday “slide” schedule, the resumption of Routes until complete, develop an alternate schedule, or resume the normal schedule on Monday following the suspension.

(C) The County, at its sole discretion, may enter into an agreement with a separate contractor to collect and transport debris resulting from a storm or natural or man made disaster. In the event that such contractor is mobilized by the County, the Contractor must continue to provide Collection Services as defined in this Agreement.

(D) In the event Contractor, through no fault of its own, is incapacitated by a hurricane, tornado, major storm or other natural or man made disaster, the Contract Administrator may grant Contractor a variance from regular Routes and schedules. Such variance will not be withheld unreasonably. In such event, the Contract Administrator may authorize other service providers to temporarily provide Collection Service within the Service Area after such natural disaster. To compensate the replacement service provider, the County shall deduct from the Contractor’s monthly payment immediately preceding the incapacitation, a sum equal to the compensation that would have otherwise been paid to the Contractor for the Collection Services provided. As soon as practicable after such natural disaster, Contractor must advise the Contract Administrator when it is anticipated normal Routes and schedules can be resumed.

#### **SECTION 6.06. CONTRACTOR PERSONNEL.**

(A) Contractor must assign and maintain qualified Key Personnel to be in charge of the operations within the Service Area, and must provide and keep current with the Contract Administrator, the name, email address, and cell phone number of each person. The assignment of

Key Personnel to the supervision and administration of this Agreement is subject to the approval of the Contract Administrator.

(B) Contractor must provide at least one (1) qualified field supervisor in the Service Area to have responsibility for the collection operation in the Service Area. The field supervisor(s) must be exclusively assigned to the field operation in the Service Area, providing on-site supervision of the collection vehicles and personnel. They must each be assigned a pick up truck and a two-way radio/telephone, and report to the Service Area no later than 7 a. m. each Service Day. They must remain in the Service Area until all Routes are complete. When all Routes are complete at the end of each day, the field supervisor(s) must radio the Contract Administrator. In the event that a Route(s) cannot be completed, the field supervisor(s) must radio the Contract Administrator with the details of how and when the Route will be completed. Incomplete Routes are subject to liquidated damages as defined below in SECTION 6.10.

(C) In the event that the duties of the supervisor(s) cannot be performed, the Contractor must assign a qualified substitute and provide the name and phone number of the substitute to the Contract Administrator within one hour of the absence.

(D) Contractor's collection employees and field supervisor(s) must at all times wear ankle length trousers, steel toed shoes, and a County approved short or long sleeved reflective uniform shirt bearing the name of Contractor. The outermost layer of clothing, including coats and vests, for all collection and supervisory personnel must be reflective and clearly display the name of the Contractor. In addition to the above, safety helmets must be worn by all personnel at the Designated Disposal Facility and Designated Recycling Facility.

(E) All drivers must, at all times, carry their valid State certified commercial driver's license (CDL), valid proof of insurance for the type of vehicle that is being driven, and their valid D.O.T. medical card.

(F) Contractor's name and local office telephone number must be prominently displayed on all vehicles used to collect Residential Refuse and Recyclable Material and on all vehicles used by field supervisors. Contractor must provide the County at all times with a current list of the vehicles used for Residential Refuse Collection Service and Residential Recyclable Material Collection Service.

(G) Contractor must provide operating and safety training for all personnel no less than four (4) times each year. The Contractor must notify the Contract Administrator two (2) weeks prior to a scheduled safety training so that a County representative can attend. Collection personnel and supervisors must be fully trained to perform their duties in the execution of this Agreement. Newly hired employees must receive comprehensive operational and safety training prior to assuming duties. Drivers and supervisors must have complete and thorough knowledge of collection Routes and schedules including Route start, mid and end points. Collection personnel must be fully trained in the rules and procedures that govern all the collection services as provided herein. The aforementioned training is required of the Contractor and any sub contractors they employ. The Contractor must agree to the County's request for a "ride along" at any time during the term of this Agreement.

(H) Contractor's employees must treat all Residents in a polite and courteous manner. The Contractor and personnel must not solicit, request, or receive gratuities of any kind. The Contractor must remove from service or terminate any employee who engages in misconduct or fails to perform their duties in the execution of this Agreement, or is disorderly, dishonest, intoxicated, or discourteous. Any complaint of employee misconduct received by the County must be immediately communicated to the Contractor. Within two (2) hours of receipt of the complaint, the Contractor must respond with a verbal report, and by 12:00 p.m. the following day, a written report must be submitted to the Contract Administrator.

(I) The Contractor must have a truck and crew, consisting of one driver and at least one helper per collection vehicle, dedicated to every Route on every Collection Day. Except as provided herein, Scrap Metal collection vehicles can operate with a one person crew. All collection vehicle operators must possess and maintain a valid State certified Commercial Driver's License (CDL). All collection equipment and personnel must begin their collection Routes no earlier or later than 7 a.m. each day, and unless approved in advance by the Contract Administrator, must complete their routes and empty the vehicle's contents at the designated county facility by the facility's closing time.

(J) There must be 25% spare equipment and no less than two (2) reserve drivers, assigned to drive collection vehicles to replace regularly scheduled drivers that become unavailable to perform their assigned duties. The Contract Administrator must be notified within one hour of the suspension of service, and the reserve driver must assume their duties within that same one hour period of time.

**SECTION 6.07. COLLECTION EQUIPMENT.**

(A) All equipment used to fulfill this Agreement, including equipment used by any subcontractors, must be new at the commencement of this Agreement. All collection equipment, except Scrap Metal collection vehicles, must be rear load vehicles. All CNG powered collection vehicles (except Scrap Metal collection vehicle) must have a minimum fuel capacity of seventy-five (75) gallons (diesel fuel equivalent), and a maximum load capacity of twenty-eight (28) cubic yards. All equipment must be delivered to the Contractor's Montgomery County facility no less than thirty (30) days prior to the Agreement Commencement.

(B) Contractor must have on hand at all times and in good working order such equipment as shall permit Contractor to adequately and efficiently perform the Contractual duties specified in this Agreement. The Contractor must maintain a fleet of 125% of the number of collection vehicles necessary to provide the services required of this Agreement (100% required for daily use, 25% spares for each vehicle type and use).

(C) Contractor's proposal to enter into this Agreement must include a list of the specific equipment to be used by Contractor in its provision of Collection Service hereunder. The parties agree that the equipment list, including spares, is made a part hereof by reference as Appendix C, and may not be changed without prior written approval by the Contract Administrator.

(D) Thirty (30) days after the execution of this Agreement, Contractor must submit a copy of the record(s) listing the quantity and types of vehicles to be used in the service of this Agreement. The list must include the quantity of each vehicle to be ordered; each chassis and body make, model number, model year, and capacity; fuel tank capacity ; engine year, make and model; total vehicle (tare) weight; and use (refuse, yard trim, recyclables, scrap metal, or spare),... Specifications for the Supervisors' vehicles must also be provided. The Contract Administrator must be notified of any new or replacement equipment purchased by the Contractor and subcontractor during the term of this Agreement. Replacement vehicles must be equal to or less than the age of the vehicles they are replacing, but no more than four (4) years of age.

(E) All collection equipment and vehicles must comply with the requirements of all Federal, State and local laws and regulations including the Montgomery County Code, Chapter 48; the State of Maryland Motor Vehicle Administration; and the Department of Transportation. All licenses, permits and tags must be current and clearly displayed.

(F) The interior and exterior of such collection equipment and vehicles must be kept in good repair, appearance, and in a sanitary, leak-proof, clean condition at all times. Contractor must have sufficient spare equipment and parts available to provide the service within the hours and days of collection required hereunder. Such spare equipment must correspond in size and capacity to the equipment used by Contractor to perform its Contractual duties.

(G) All collection equipment must be painted uniformly PMS Reflex Blue (Pepsi Blue), with the name of the Contractor, business telephone number and the number of the vehicle in letters not less than 3 inches on all sides of the vehicle. The Contractor's telephone number and the vehicle

number must be displayed on the front and rear of each vehicle. All vehicles must be numbered and a record kept of the vehicle to which each number is assigned. All collection vehicles must have signage which shall be provided by the County stating that they are powered with compressed natural gas. The design, the slogan, and the signage (wrap) for the vehicles shall be provided by the County at no cost to the Contractor. All collection vehicles (including those used to collect scrap metal) must be equipped with a permanently mounted 32”(h) x 96”(w) metal billboard holder on both sides to display County-provided advertising messages. Advertising is prohibited on the vehicles, except for promotions and events sponsored by the County, which must be advertised on request. All collection equipment used to collect Recyclable Materials must display a County-provided recycling logo on all four sides of each vehicle. Only County approved signage can be displayed on Contractor’s vehicles.

(H) All collection equipment and supervisor’s vehicles must be equipped with an internet based operating Global Positioning System (GPS) that allows the County to continuously monitor the vehicle’s location. The Contractor must provide the County with the software and hardware needed to monitor the Contractors’ collection equipment and vehicles at intervals of ten (10) minutes or less. Collection equipment must be equipped with a radio/telephone system compatible with the County’s to provide instant communication with the Contractor’s business office and the field supervisor.

(I) The Contractor must grant access, and the County shall have the right to inspect, at any location during normal business hours, equipment and vehicles used in the performance of this Agreement. Such access must be granted without prior notice by the County.

(J) When traveling to and from their collection Routes, all collection equipment must be covered to protect its contents from exposure to weather, and prevent material from escaping the vehicle.

(K) All collection vehicles used to collect Recyclable Materials (except those used to collect Scrap Metal) must be a split-body rear load packer type, with a 60/40 split. Mixed paper and cardboard must be collected on the 60% side, commingled material on the 40% side. Both sides must be equipped with a cart tipping device capable of emptying semi-automated Recycling Carts weighing up to 220 pounds each.

(L) Collection vehicles used to collect Scrap Metal must be no less than a one (1) ton stake body vehicle, equipped with a hydraulic lift gate. During transport to the Designated Recycling Facility, the Scrap Metal collection vehicle must be covered as defined in Chapter 48 of the Montgomery County Code to prevent littering.

(M) During the term of this Agreement, the County may require the use of cart tipping devices on all refuse collection vehicles. The County shall provide the Contractor with no less than sixty (60) days notice, and the devices must be installed at the Contractor's expense.

(N) All collection vehicles must be properly maintained to avoid leaks and spills. Hopper plugs must be in place at all times, and seals must be maintained. All collection equipment must be equipped with a broom to clean up any spilled material, and a spill kit to clean up any liquid spills.

(O) To minimize their impact on the environment, all collection vehicles used in the service of this Agreement, including spares, must be equipped with engines that are certified by their manufacturers as satisfying the emission standards specified by the United States Environmental Protection Agency in 40 CFR Parts 69, 80, and 86, for the 2010 model year Heavy-Duty Engine Exhaust (Final Rule, Promulgated Thursday, January 18, 2001, specifically: 0.02, 0.14, and 0.01 grams/brake-horsepower, for Oxides of Nitrogen (NO<sub>x</sub>), Non-Methane Hydrocarbons (NMHC), and Particulate Matter, respectively). A copy of the manufacturers' specifications for all vehicles must be submitted to the Contract Administrator



(P) All Collection vehicles (including spares) must utilize compressed natural gas (CNG) which produces lower emission of fossil carbon. Vehicles other than collection vehicles must be hybrid or CNG powered, including those used by field supervisors.

(Q) Contractor must employ standard best management and safety practices by designing and operating routes to minimize fuel consumption and distance traveled

(R) Advertising is prohibited on recycling collection vehicles except signage approved by the County to promote recycling. Contractor name, vehicle number, corporate logo, and telephone number must be displayed on both sides of all vehicles at all times. Letters must be no less than three (3) inches. This Contractor's name and vehicle number must be visible from the front and rear of the vehicles.

(S) The County may elect to display a permanent or temporary recycling message on all or some collection vehicles. The cost of printing the message shall be paid by the County. The installation of the message must be paid by the Contractor.

(T) Contractor's collection equipment must be inspected no less than once every twelve (12) months by an authorized State of Maryland Inspection Station. Contractor must provide Contract Administrator with a copy of each certified record of inspection as part of the Contractor's annual report. Prior to the Agreement Commencement, each vehicle used in the performance of this Agreement must be State inspected. A copy of the certified record of inspection must be provided to the Contract Administrator no more than one (1) week prior to the Agreement Commencement. The County or its agents shall have the right to inspect the Contractor's equipment prior to award of this Agreement and periodically throughout the term of the Agreement. The Contractor must make its equipment available to the County or its agent for inspection during business hours, at times and location designated in advance by the County or its agent. If necessary, the County or its agent shall have the right to order the Contractor to repair, modify, or replace equipment found to be non-compliant with the terms of this Agreement. Collection equipment deemed non-compliant with the

standards set forth in this Agreement must be removed from service immediately upon written notice by the Contract Administrator. Such non-compliant equipment shall return to service upon passage of a thorough inspection by the County, receipt of documentation of repairs to the County, and written approval of the Contract Administrator. In addition, the County reserves the right to periodic ride-alongs by the Contract Administrator or designee in the Contractor's collection or Supervisor's vehicle.

**SECTION 6.08. USE OF DESIGNATED DISPOSAL AND RECYLING FACILITIES.**

(A) As a material consideration for this Agreement, Contractor must deliver all Residential Refuse collected to a Designated Disposal Facility, and all Recyclable Materials must be delivered to a Designated Recycling Facility.

(B) Loads of Recyclable Materials must be delivered to the Designated Recycling Facility free of any Contaminants. If the County rejects a load of Recyclable Materials, the Contractor must either remove the Contaminants or deliver the load to the Designated Disposal Facility for disposal at Contractor's expense.

(C) Contractor must comply with the provisions of all permits, rules, regulations, laws and ordinances adopted or issued by the County, State of Maryland, or United States of America and applicable to the Designated Disposal and Designated Recycling Facility.

(D) Contractor hereby releases the County from all liability and shall indemnify and hold the County, its agents, and employees harmless from any and all claims and causes of action for loss of property, accident, personal injury or death by reason of any act or omission of Contractor, its agents, or employees in the use of the Designated Disposal Facility and the Designated Recycling Facility, and for all claims and causes of action for violation of all permits, rules, regulations, laws and ordinances adopted or issued by the County, State of Maryland, United States of America due to the placement or disposal of Hazardous Waste at the Designated Disposal Facility or Designated

Recycling Facility by reason of any act or omission of Contractor, its agents or employees in the use of the Designated Disposal Facility and Designated Recycling Facility.

(E) The County has the right, in its sole discretion, to direct Contractor to dispose of the Residential Refuse collected pursuant to this Agreement at any Designated Disposal Facility, and Recyclable Material collected pursuant to this Agreement at any Designated Recycling Facility. In the event that the County chooses or is obliged to change the location of such disposal or recycling to any site other than the current Transfer Station or Materials Recycling Facility located at Rt. 355 and Shady Grove Road, Rockville, MD., Contractor and the County shall in good faith negotiate a new rate for affected services, based on the difference in total transportation costs of all collection vehicles caused by the change in location of the new Designated Disposal Facility. Should the County and Contractor be unable to agree upon new rates when and if the County designates a new disposal site, the existing rates shall continue to apply for a period of ninety (90) days at which time either party may terminate the Agreement.

#### **SECTION 6.09. COMPLAINTS, MISSES AND SERVICE REQUESTS.**

The County shall receive all Resident complaints and service requests. Such complaints and service requests will be communicated to the Contractor in the following manner:

(A) The County shall establish and maintain an email account to which notice of complaints and service requests shall be sent to the Contractor. Notice of claims of missed collection service, property damage, theft, and employee misconduct; and requests for collection of Bulk Items and Scrap Metal will be emailed to the Contractor as soon as they are received by the County. A summary of all complaints and service requests received between 3 p.m. and 11 a.m. shall be emailed by the County to the Contractor by 11:00 a.m. every Service Day. A summary of all complaints and service requests received by the County between 11:00 a.m. and 3 p.m. shall be emailed to the Contractor by 3 p.m. each Service Day. No later than 1 p.m. each Service Day, the

County shall email a list of all Bulk Items and Scrap Metal to be collected by the Contractor the following Service Day.

(B) Complaints communicated to the Contractor by the County by 11:00 a.m. must be resolved to the satisfaction of the Contract Administrator by 7 a.m. the following day. Complaints communicated to the Contractor by the County after 11:00 a.m. must be resolved to the satisfaction of the Contract Administrator by 12:00 p.m. the following day.

#### **SECTION 6.10. QUALITY OF PERFORMANCE OF CONTRACTOR.**

(A) It is the intent of the County to ensure that the Contractor and its sub-contractors provide high quality Collection Service. To this end, all complaints received by the County and reported to the Contractor must be promptly resolved pursuant to the provisions of this Agreement. For performance failures or Contractual violations by the Contractor as specified herein, the Contract Administrator may levy liquidated damages as follows. Such liquidated damages which shall be separate and apart from any other fines or penalties imposed by Federal, State, or local governments, including those imposed under Chapter 48 of the Montgomery County Code:

(B) The Contract Administrator may assess liquidated damages pursuant to SECTION 6.10 on a monthly basis in connection with this Agreement, and shall, at the end of each month during the term of this Agreement, notify the Contractor in writing of the liquidated damages assessed and the basis for each assessment. Liquidated damages shall be deducted from the Contractor's next monthly compensation immediately following notice by the Contract Administrator.

(C) Chronic Violations (three (3) or more similar violations at the same Dwelling Unit, or similar administrative or operational violations of this Agreement within a twelve (12) month period) shall be subject to liquidated damages that are double those defined herein. Violations are deemed cumulative, and shall be subject to liquidated damages as defined herein until the termination of this Agreement.

(D) In the event Contractor wishes to contest such assessment it shall provide written objections to the Contract Administrator to each contested assessment or charge and, within five (5) business days after receiving such monthly notice, request in writing an opportunity to be heard and present its written defense to such administrative assessment. The County shall notify Contractor in

<b>Liquidated Damages</b>	
Failure to clean up spilled Residential Refuse or Recyclable Material; littering.	\$100/incident/location/day
Failure or neglect to collect Residential Refuse or Recyclable Material from any Dwelling Unit at or within the times specified in this Agreement.	\$100/Dwelling Unit/ day
Failure or neglect to complete each Route on the regular Service Day	\$1,000/Route/day
Failure to follow designated route schedule	\$100/route/day
Failure to keep vehicles and equipment in good repair and maintained in clean, safe and sanitary condition	\$1,000/vehicle/incident/day
Failure to have vehicle operators properly licensed	\$1,000/operator/day.
Failure to procure vehicles	\$1,000/vehicle/day
Failure to have vehicles properly licensed/permitted	\$1,000/vehicle/ day
Failure to maintain specified office hours or complement of personnel	\$1,000/incident/day
Failure to replace or repair any damaged Recycling Container or Standard Container.	\$25/ incident/location/day
Failure to submit, file or keep current all documents and reports required by this Agreement	\$100/incident/day
Failure to resolve any complaint as Specified in this Agreement	\$100/incident/day
Failure to provide service as defined herein to Dwelling Units on the "Hot House" list	\$100/incident/day
Failure to empty container completely	\$50/incident/day
Throwing or failure to properly return container, bin or cart to point of collection	\$50/incident/day
Failure to tag Standard Container, Recycling Container, pile, bag, item(s)	\$50/incident/day
Incomplete crew on collection vehicle	\$500/vehicle/day
Failure to notify Contract Administrator	\$1,000/incident/day
Failure to notify County of service interruption	\$1,000.00/incident/day
Failure to collect material in specified vehicle	\$1,000/vehicle/day
Failure to properly label vehicles	\$100/vehicle/day
Failure to maintain proper County or State license, permit (vehicle or driver)	\$1,000/vehicle/day
Failure to maintain proper insurance	\$1,000/policy/day
Failure to operate GPS tracking system	\$100/vehicle/day
Mixing solid waste and recyclables	\$1,000/incident/day
Mixing Residential and commercial solid waste	\$1,000/incident/day
Failure to repair property damage (within 5 days)	\$100.00/incident/day
Failure to reimburse for damage after notification by Contract Administrator	\$100.00/incident/day
Failure to report vehicle breakdown within one hour	\$1,000/incident/day
Failure to use authorize vehicles	\$1,000/incident/day
Solicitation of gratuities	\$500/incident/day
Failure to wear safety gear or uniform	\$100/incident/day
Failure to complete or issue a Rejection Tag	\$100/incident/day
Failure to have working communication devices, email	\$100/incident/day
Employee misconduct	\$500/employee/incident/day
Failure to respond to employee misconduct claim by 12:00 p.m. the next business day.	\$100/incident/day
Failure to resolve employee misconduct claim	\$100/incident/employee
Failure to provide required number of Supervisors, drivers, or crew.	\$1,000/incident/day
Utilization of collection vehicles for work other than that provided in this Agreement	\$1,000/incident/day

writing of any action taken with respect to Contractor's claims, and the decision of the Contract Administrator shall be the final administrative action.

(E) The assessment of liquidated damages pursuant to SECTION 6.10 is a supplementary remedy and does not replace any other remedies available to the County under this Agreement, or otherwise, for failure of Contractor to provide a high quality level of service.

(F) The Contractor is responsible for any damage to private or public property caused by the Contractor or the Contractor's subcontractors during the performance of the Agreement. The Contractor must at its own expense replace or restore to its original condition any such damaged property. Within five (5) working day of notification by the County or a Resident, of a claim of fifty dollars (\$50) or less, the Contractor must resolve or make a written commitment to pay the claim. Claims of fifty-one dollars (\$51) or more shall be resolved pursuant to the Dispute provisions of the GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR attached hereto as Appendix E and incorporated herein by reference.

(G) In the event the Contractor's failure to perform under this Agreement necessitates the County to procure the services of another collection Contractor to provide Residential Collection Services, the compensation for the replacement Contractor will be deducted by the County from the Contractor's next monthly payment, and Contractor shall not receive compensation during the period the replacement Contractor performs the work.

#### **SECTION 6.11      COMPENSATION AND ADJUSTMENTS.**

(A) Contractor's compensation shall be based on the number of Dwelling Units in the Service Area. At the end of each quarter, the Contract Administrator shall submit a statement to the Contractor containing the number of Dwelling Units in the Service Area for which the Contractor must receive compensation.

(B) Upon receipt of the statement, Contractor must prepare and submit an invoice to the County. Invoices must be prepared by the Contractor in a format approved by the Contract

Administrator and include, on Contractor's stationery, the Agreement number, the monthly cost per Dwelling Unit, the number of Dwelling Units in the Service Area to which the Contractor provided Residential Recyclable Material Collection Service, the number of Dwelling Units in the Service Area that received Residential Refuse Collection Service, and the total amount of the invoice. The Contract Administrator shall designate a recipient for the monthly invoices. Until further written notice by the Contract Administrator to the contrary, Contractor must deliver monthly invoices to:

Robin D. Ennis  
Chief, Collections Section  
Division of Solid Waste Services  
Department of Environmental Protection  
Montgomery County Government  
101 Monroe Street, 6<sup>th</sup> Floor  
Rockville, MD 20850-2589

(C) The Contractor shall be paid on a monthly basis within thirty (30) days of receipt of a valid invoice by the County, but no sooner than the last day of the invoice period. Adjustments to compensation for invoices received after the invoice period shall be effective the date of receipt by the County of a valid invoice. The monthly payment to the Contractor shall be adjusted by the County if any changes in the number of Dwelling Units occurred in the previous quarter.

(D) The Contractor is not entitled to compensation for preliminary preparatory work that the Contractor may perform prior to the Agreement Commencement.

(E) At the same time the invoice is submitted to the Contract Administrator, the Contractor must also submit original copies of receipts for fuel purchased during the previous month. Receipts must state the cost per gallon (diesel gallon equivalent for CNG), number of gallons purchased, and the type of fuel purchased.

(F) In the event the Contractor provides services under this Agreement for a period of less than one month, the County shall compensate the Contractor by calculating the number of collection days worked divided by the number of working days in the month and multiplying that number by the price per Dwelling Unit.



(G) Prices quoted are firm for a period of two years after Agreement Commencement. Any request for a Price Adjustment, after this two-year period is subject to the following:

1. Approval or rejection by the Director, Office of Procurement or designee.
2. Must be submitted in writing to the Director, Office of Procurement and accompanied by supporting documentation justifying the Contractor's request.

(H) A request for any Price Adjustment shall not be approved unless the Contractor submits to the County sufficient justification to support that the Contractor's request is based on its net increase in costs in delivering the goods/services under the Agreement.

1. Submitted sixty (60) days prior to Agreement expiration date, if the Agreement is being amended.
2. If approved, shall be the lesser of percentage change of the net increase in the Contractor's approved expenses for the twelve months prior to the Anniversary Date or the annual percentage change of the Consumer Price Index (CPI) on the effective date of the Price Adjustment. The request shall be based upon the CPI for all urban consumers issued for the Washington-Baltimore, DC-MD-VA-WV Metropolitan area by the United States Department of Labor, Bureau of Labor Statistics for ALL ITEMS.

(I) The County shall approve only one Price Adjustment for each Agreement term. If a Price Adjustment is approved, such Price Adjustment shall be effective sixty (60) days from the date of receipt of the Contractor's request, but no sooner than sixty (60) days after the Anniversary Date, and shall be in effect until sixty (60) days after the next Anniversary Date. Price Adjustments shall be executed by written amendment.

(J) Consumer Price Index (CPI) Adjustment

1. Subject to the approval of the Montgomery County Director, Office of Procurement, effective sixty (60) days from the second and all subsequent Anniversary Dates, payment under this Agreement may be adjusted based upon the following:
  - (a) should the CPI show a change from the base index to the CPI in effect on the Anniversary Date; and
  - (b) approval by the County of the Contractor's expenses during the preceding twelve (12) month period ending on the Anniversary Date as set forth in SECTION 6.15(B)(4) herein;
  - (c) payment shall be adjusted based on the lesser of the percentage of change in the Contractor's approved expenses during the twelve (12) months prior to the Anniversary Date, or the CPI in effect on the Anniversary Date.
2. As set forth in SECTION 6.15(E), a statement of the Contractor's expenses, certified by a licensed Maryland Certified Public Accountant, must be submitted to the Contract Administrator not more than sixty (60) days after each Agreement Anniversary date. A request for Price Adjustment and statement of expenses submitted after the Agreement Anniversary date that results in an increase in Contractor's payment, shall be effective on the later of sixty (60) days after the Agreement Anniversary date or sixty (60) days after the date of receipt of the statement of expenses by the Contract Administrator. The Price Adjustment shall not be retroactive to the Agreement Anniversary Date if statement of expenses is received after the Anniversary Date.
3. Adjustment shall be calculated by comparing the base index specified in SECTION 6.11 above with the index in effect for each Agreement period. The

final adjustment calculation shall be rounded to the nearest tenth of a percentage point. Example: Assume that the CPI index for January 2012 is 118.0, and for January 2013 is 123.0. The CPI for January 2013 would be calculated as follows:

$$\frac{123.0 - 118.0}{118.0} \times 100 = +4.24\%$$

Rounding to 1/10% = +4.2%, increase would be 4.2%

(K) Fuel Price Adjustment

1. In the event the Contractor's price paid for the three month average of any quarter exceeds \$5.00 per diesel gallon equivalent, Contractor may notify the Contract Administrator in writing, to request a fuel price adjustment. Such notification, must include original receipts from Contractor's fuel vendor as proof of the amount per gallon the Contractor paid for fuel during the quarter.
2. Upon receipt of request from Contractor, payment under this Agreement shall be adjusted quarterly based upon the Contractor's average price paid for fuel during the previous quarter.
3. Payments shall be adjusted based on the following formula. The calculated adjustment percentage shall be rounded to the nearest tenth of a percentage point:

$$\frac{(F_N - F_B)}{F_B} \times .05 \times 100 = \text{Payment Adjustment Percentage}$$

4.  $F_B$  is \$5.00 per diesel gallon equivalent.
5.  $F_N$  is the Contractor's average price paid for fuel during the quarter immediately preceding the pending adjustment.
6. .05 is a factor that represents the portion of the Bid price allocated to fuel costs. This factor shall not be adjusted to reflect actual costs incurred by the Contractor.

7. EXAMPLE: Assume payment documents are prepared by the County for payment in April, 2012. The quarterly average fuel prices available prior to April 1, 2012, are assumed for this example to be:

<u>Date</u>	<u>Price (\$ per diesel gallon equivalent)</u>
01/2012	\$5.215
02/2012	\$5.335
03/2012	\$5.258
Average	= \$5.269

8. The Payment Adjustment Percentage is as follows:

$$\frac{(F_N - F_B)}{F_B} \times .05 \times 100 = \text{Payment Adjustment Percentage}$$

$$\frac{(\$5.269 - \$5.00)}{5.00} \times .05 \times 100 = .269 \%$$

9. Adjustment

- (a) Monthly Payment Calculation

$$200 \text{ units} \times \$150 \text{ per unit} = \$30,000 \text{ monthly payment.}$$

- (b) Fuel Price Adjustment Calculation

$$F_N = \$5.269 \text{ (average price during previous month)}$$

$$F_B = \$5.00 \text{ (base adjustment price)}$$

$$\frac{(\$5.269 - \$5.00)}{\$5.00} \times .05 \times 100 = .269\%$$

$$\text{Rounded to the nearest } 1/10^{\text{th}} = .27\%$$

$$\$30,000 \times .27\% = \$81$$

10. Applying Fuel Price Adjustment to April 2012 Payment

$$\$30,000 + \$81 = \$30,081$$

11. In the event the Contractor's average quarterly cost of fuel is less than \$5.00 per diesel gallon equivalent, Contractor shall not receive a fuel adjustment. Invoices and receipts received by the Contract Administrator shall receive payment adjustment based on the later of the Agreement Anniversary date or date of

receipt,

and such payment will not be retroactive to the Agreement Anniversary Date.

(L) There shall be no retroactive payments applied to or made for invoices received by the County after their due date. Payments shall be calculated based upon the date of receipt by the Contract Administrator of a complete, valid invoice and all complete, valid documents as required.

#### **SECTION 6.12. PERFORMANCE INCENTIVES.**

Quality customer service is paramount to Montgomery County. To this end, the County shall award a monthly performance incentive to one of its Contractors. The performance incentive shall be awarded to the collection crew with the fewest number of Resident complaints, property damages, misses, and same days. Performance incentives shall be included in the Contractor's monthly payment.

#### **SECTION 6.13. PERMITS AND LICENSES.**

Contractor must obtain, at its own expense, all permits and licenses required by law or ordinance and maintain same in current full force and effect status.

#### **SECTION 6.14. SECURITY FOR PERFORMANCE.**

Contractor must secure its performance of this Agreement and all obligations arising hereunder either by furnishing an Irrevocable Letter of Credit (ILC), as described in SECTION 6.14(A), or by furnishing a Performance Bond as described in SECTION 6.14(B). The ILC or Performance Bond must be delivered to the County simultaneously with the execution of this Agreement. The County may rescind the recommended award and commence negotiations with the next highest rated offeror in the event the Contractor fails to provide the ILC or Performance Bond as set forth herein in a timely manner.

(A) The ILC must be issued by a federally insured and regulated savings and loan association or commercial bank, licensed to do business in the State of Maryland. The ILC in the amount of \$50,000 must secure the faithful performance of this Agreement and all obligations

arising hereunder in the amount of \$50,000 and be in substantially the form set forth in Appendix B.

The ILC initially provided must be valid and remain in effect throughout the term of this Agreement. It must thereafter be automatically renewed for successive one year periods unless, at least sixty (60) days prior to the ILC's date of expiration, the issuer of the ILC notifies the County in writing by registered mail that the issuer elects not to so renew the ILC. If at any time the County has been notified that the issuer of the ILC has elected not to renew the ILC for a successive period of at least one year and Contractor has failed to deliver to the County a replacement ILC meeting the standards set forth in this SECTION 6.14(A) or a Performance Bond meeting the standards set forth in SECTION 6.14(B) at least fifteen (15) days prior to the date on which the ILC expires, the County shall be entitled to draw the full amount of the ILC and hold the funds derived there from to secure Contractor's performance of this Agreement.

(B) The Performance Bond must be issued by a surety licensed to do business in the State of Maryland. The Performance Bond must secure the faithful performance of this Agreement and all obligations arising hereunder in the amount of \$50,000 and must be in substantially the form set forth in Appendix B. A Performance Bond provided must be valid and remain in effect throughout the terms of the contract. It must thereafter be automatically renewed for successive one year periods unless, at least ninety (90) days prior to its date of expiration, the issuer of the Performance Bond notifies the County in writing by registered mail that the issuer elects not to renew the Performance Bond. If at any time the County has been notified that the issuer of the Performance Bond has elected not to renew the Performance Bond for a successive period of at least one year and Contractor has failed to deliver to the County a replacement Performance Bond meeting the standards set forth in this SECTION 6.14(B) or an ILC meeting the standards set forth in SECTION 6.14(A) not later than fifteen (15) days following the County's receipt of such notice, the County, at its sole option, may terminate this Agreement as of the date on which the Performance Bond expires.

## **SECTION 6.15. REPORTING REQUIREMENTS, BOOKS AND RECORDS.**

(A) In addition to any other requirements of this Agreement, Contractor must file pertinent statistical and aggregate cost information pertaining to Residential Refuse Collection Service and Residential Recyclable Material Collection Service that is requested by the County to comply with the provisions of Chapter 48 of the Montgomery County Code, and other pertinent laws and regulations.

(B) The Contractor must maintain records of its operation and prepare and submit report to the County as described herein:

1. Morning Report. No later than 7:30 a.m. each collection day, the Contractor must submit a daily report, on forms provided by the County. These reports must include:
  - (a) Identification of the collection vehicle(s), by truck number to be used in the performance of this Agreement;
  - (b) The time the Contractor dispatched each collection vehicle and crew to begin collection;
  - (c) The Route each truck is working and the number of workers assigned to each collection Route; and
  - (d) The assigned field supervisor for each Route;
2. Afternoon Report. In the event the Contractor is unable to complete the Routes or fulfill any of the requirements under this Agreement, before 4:00 p.m. on the collection day, the Contractor must submit an afternoon report on forms provided by the County. The afternoon report must include:
  - (a) The approximate time the Contractor will complete each Route;
  - (b) The reason the Contractor will not complete their Route(s) on the Collection Day or will not fulfill the requirements of this Agreement; and

- (c) All changes in vehicles, Routes, supervisors or staff, or any other pertinent changes that will affect the services provided hereunder.

3. Other Reports.

- (a) Within one hour of completing each Route, and upon learning of any deviation, truck changes, delays or vehicle breakdowns, the Contractor must provide that information to the County.
- (b) The Contractor must notify the County immediately upon the resolution of each complaint. The Contractor must notify the County immediately upon receipt of a complaint or service request received by a Resident.
- (c) At its sole discretion, the Contract Administrator may require submission of other reports not specified herein but related to the performance of the Contractor.

4. Annual Financial Reports. No more than sixty (60) days after the end of Agreement Anniversary date, the Contractor must submit an annual financial report. The report must include the costs of maintenance, personnel, and the identity of all Minority, Female, or Disabled (MFD) Subcontractors or vendors used in the performance of this Agreement.

(C) Within ten (10) days after the end of each calendar quarter, Contractor must submit original copies of vendor receipts for fuel purchases to Contract Administrator as evidence of the purchase and use of CNG fuel used in all collection vehicles as set forth in SECTION 6.07 (P).

(D) The County or its designee has the right to review all records maintained by Contractor after five (5) days written notice.

(E) An annual audit of Contractor's expenses for services provided under this Agreement must be prepared by an independent Maryland certified public accounting firm acceptable to the County in accordance with generally accepted accounting principles and must be delivered to the



County at Contractor's expense within sixty (60) days of the twelve (12) month period ending Contractor's Agreement Anniversary date. Contractor must establish and maintain at its own expense during the term of this Agreement, a bookkeeping, accounting and record keeping system to facilitate the preparation of said audit and must preserve for at least six (6) years from the date of their preparation, full, complete and accurate books, records and accounts in accordance with generally accepted accounting principles consistently applied and in the form and manner prescribed by the County from time to time.

#### **SECTION 6.16      USE OF RECYCLED PRODUCTS.**

When available, Contractor must purchase products or materials with recycled content with respect to work performed or products supplied under this Agreement. A decision to not purchase such items must be based on a determination that such procurement is not available within a reasonable period of time, fails to meet the performance standards set forth in applicable specifications or fails to meet the reasonable performance standards of Contractor or the County.

#### **SECTION 6.17.      POINT OF CONTACT.**

All dealings, contacts, notices, and payments between Contractor and the County must be directed by Contractor to the Contract Administrator unless otherwise specifically provided for herein.

#### **SECTION 6.18.      LOCAL IMPROVEMENTS.**

The County reserves the right to construct any improvement or to permit any construction in any street or alley, which may have the effect of temporarily preventing Contractor from traveling its accustomed Route or Routes for collection. Contractor, however, by an acceptable method, must continue to collect the Residential Refuse and Recyclable Material to the same extent as though no interference existed upon the streets or alleys formerly traversed. This must be done without extra cost to the Residents.

**SECTION 6.19. TITLE TO WASTE AND RECYCLABLES.**

The County shall have title to all Residential Refuse and Recyclable Material upon its placement at Curbside or Side Door, and upon its collection by the Contractor.

**SECTION 6.20. PROMOTIONAL REQUIREMENTS.**

(A) The County shall be responsible for the development and production of promotional material, including but not limited to printed material, radio advertisements and newspaper advertisements, to introduce and promote the Residential Refuse Collection Service and Residential Recyclable Material Collection Service. In addition, the County shall develop periodic promotional programs to encourage increased participation and enhance public awareness.

(B) At the direction of the Contract Administrator, (but not more than twice during any calendar year), Contractor must insert packages of promotional material developed and prepared by the County in Recycling Containers placed at the usual accessible pick-up location, or on the door of each Dwelling Unit in the Service Area.

(C) Any notices to Dwelling Units of changes in collection days or Routes will be developed and printed by the County at the County's expense. Such notices must be hung by the Contractor on the door of each Dwelling Unit affected by the change.

(D) The Contractor is not permitted to distribute printed material to Dwelling Units unless approved in writing by the Contract Administrator.

**SECTION 6.21. CHANGES IN SCOPE OF COLLECTION SERVICE.**

From time to time, at the sole option of the County, it may be necessary to modify the scope of the Residential Refuse Collection Service and/or Residential Recyclable Material Collection Service to be provided hereunder. In such event, the Director, Office of Procurement shall provide notice to Contractor not less than sixty (60) days prior to the proposed effective date. Any change in scope that does not increase Contractor's actual cost must be implemented on the specified date without modification to this Agreement. If the change in scope does increase Contractor's actual

cost, Contractor must notify the Contract Administrator within thirty (30) days of the notice and Contractor will be entitled to an increase in Residential Refuse Collection Component and/or Recyclable Material Collection Component equal to the incremental increase in its actual cost. Any failure to agree upon a time or money adjustment will be resolved in accordance with the Disputes Section of this Agreement. The Contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided herein.

#### **SECTION 6.22        “SINGLE STREAM” COLLECTION OF RECYCLABLES.**

During the term of this Agreement, the County may elect to convert its present dual stream method of collecting and processing recyclables to a Single Stream method. In the event such conversion occurs, the County shall provide the Contractor with sixty (60) days written notice. No additional equipment, or changes to the Contractor’s equipment, Routes or schedules shall be necessary, therefore, no additional fees shall be charged nor compensation due the Contractor as a result of this conversion. Such change shall be confirmed in writing by an amendment to this Agreement.

#### **SECTION 6.23        REPLACEMENT OF DEFAULTED CONTRACTOR.**

In the event the Contract Administrator determines that the Contractor is in default of this Agreement, the County has the right and responsibility to procure the services of another contractor to provide Collection Services to the Residents in the Service Area.

(A) To immediately provide collection services, the Contract Administrator shall temporarily assign this Agreement to one or more contractors that currently hold an Exclusive Residential Collection Service Agreement in another Service Area(s). The compensation to the Temporary Contractor(s) shall be the same per Dwelling Unit compensation as the defaulted Contractor. The Temporary Contractor(s) must continue providing services until a Replacement Contractor can be secured by the County.

(B) All terms and conditions of the defaulted Contractor's Agreement shall transfer to the Temporary Contractor, including compensation. Effective the day the Contract Administrator determines the Contractor is in default, the Contractor will no longer receive payment under this Agreement.

(C) To replace the defaulted Contractor for the duration of the term of the Agreement, the County may conduct an emergency procurement as provided by Montgomery County Procurement Regulations, 4.1.11, Emergency Procurements.

(D) Contractor agrees to provide temporary collection services as a Temporary Contractor to replace a contractor in another Service Area that has been determined by the Contract Administrator to be in default of their Agreement. Contractor agrees to provide the services as defined in the defaulted Contractor's Agreement, and for the same per Dwelling Unit compensation received by the Contractor in default.

#### **SECTION 6.24. TRANSITION.**

Contractor understands and agrees that the time between the execution of this Agreement and the Agreement Commencement is intended to provide Contractor with sufficient time to, among other things, order and procure equipment, hire and train staff, lease property for equipment storage and office space, and prepare necessary routing and scheduling to commence service . Contractor must provide the Contract Administrator with a transition plan and schedule within sixty (60) days after execution of this Agreement. At the request of the Contract Administrator, Contractor must provide periodic written reports, and schedule and commit to periodic meetings between the Contract Administrator and the Contractor's Key Personnel to brief the County on the status of transition activities leading up to the Agreement Commencement.

## **ARTICLE VII**

### **GENERAL PROVISIONS**

#### **SECTION 7.01. TERM OF AGREEMENT.**

The term of this Agreement will be for the period beginning June 4, 2012, and terminating June 8, 2019. At its sole option, the County may extend this Agreement for a period of one (1) one (1) year renewal on the same terms and conditions as set forth herein. The Contractor must commence work upon receipt of an executed Purchase Order, and a Notice to Proceed issued by the County.

#### **SECTION 7.02 GENERAL CONDITIONS.**

The General Conditions of this Agreement between the County and the Contractor are set forth in Appendix E.

#### **SECTION 7.03 INSURANCE.**

The Mandatory Insurance Requirements of this Agreement are set forth in Appendix F attached hereto and incorporated herein, and in Appendix F of the RFP.

#### **SECTION 7.04. NOTICE.**

All legal notices must be in writing and transmitted via overnight courier, hand delivery, or certified or registered mail, postage prepaid and return receipt requested to the Contract Administrator:

**Montgomery County:**

Robin D. Ennis  
Chief, Collections Section  
Montgomery County Government  
Division of Solid Waste Services  
Department of Environmental Protection  
101 Monroe Street, 6<sup>th</sup> floor  
Rockville, MD 20850

Each party shall notify the other of any change of address by providing the other party thirty (30) days prior written notice.

**Contractor:**

(Insert Contractor Name)  
(Insert Contractors CEO and Address)

**SECTION 7.05. DEFAULT OF AGREEMENT.**

(A) The County may terminate this Agreement, except as otherwise provided in this SECTION 7.05, by giving Contractor thirty (30) days advance written notice, upon the happening of any one of the following events:

1. If Contractor takes the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or state of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or
2. By order or decree of a Court, Contractor will be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy law or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) days after the entry thereof, any notice of cancellation will be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, said default shall be deemed immediate; or

3. By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control or all or substantially all of the property of Contractor, and such possession or control shall continue in effect for a period of sixty (60) days; or
4. If Contractor is convicted or found guilty of a Public Entity Crime with or without an adjudication of guilt, in any federal or state trial court of record as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere, and is placed on the convicted vendor list pursuant to Section 287.133, Maryland Statutes; or
5. Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by the County pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto and said default is not cured within thirty days of receipt of written notice by County to do so, or if by reason of the nature of such default, and the same cannot be remedied within thirty (30) days following receipt by Contractor of written demand from County to do so, Contractor fails to commence the remedy of such default within said thirty (30) days following such written notice, or having so commenced shall fail thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) days, and (b) that it is proceeding with diligence to cure said default, and such default will be cured within a reasonable period of time). No notice to cure a default shall be required if Contractor fails to perform under

SECTIONS 7.05(A)(1), 7.05(A)(2), 7.05(A)(3), 7.05(A)(4), 7.05(B) and 7.05(C)

hereof.

(B) Notwithstanding anything contained herein to the contrary, if Contractor fails to provide Collection Service for a period of five (5) consecutive scheduled working days, the County may provide interim Collection Service until such time as the matter is resolved and Contractor is again able to perform pursuant to this Agreement. If Contractor is unable for any reason or cause to resume performance at the end of fifteen (15) working days, all liability of the County under this Agreement to Contractor shall cease and this Agreement may be terminated by the County.

(C) Notwithstanding anything contained herein to the contrary, in the event Contractor delivers Residential Refuse to a facility other than the Designated Disposal Facility, or Recyclable Material to a facility other than the Designated Recycling Facility, this Agreement may be terminated by the County.

(D) Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this SECTION 7.05, in the event that Contractor's record of performance shows that Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor, in the opinion of County and regardless of whether Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", shall forfeit the right to any further notice or grace period to correct, and all of said defaults shall be considered cumulative and collectively, shall constitute a condition of irredeemable default. The County shall thereupon issue Contractor a final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of said cumulative defaults, shall be grounds for immediate termination of this Agreement. In the event of any such subsequent default, County may terminate this Agreement upon the giving of written final notice to Contractor, such cancellation to be effective upon the fifteenth (15<sup>th</sup>) consecutive calendar day



following the date of the final notice, and all contractual fees due hereunder plus any and all charges and interest shall be payable to said date, and Contractor will have no further rights hereunder. Immediately upon receipt of said final notice, Contractor will proceed to cease any further performance under this Agreement.

(E) In the event Contractor defaults upon this Agreement as specified in SECTIONS 7.05(A), 7.05(B), 7.05(C) and 7.05(D), termination shall be effective upon the date specified in County's written notice to Contractor. Upon said date, this Agreement shall be immediately terminated and all liability of the County under this Agreement to Contractor will cease. Upon such termination, the County shall have the right to utilize the Performance Bond and may negotiate with other Contractors for the operation of the specified services. For failure to perform, Contractor must reimburse the County all direct and indirect costs of providing interim Collection Service.

(F) In the event this Agreement is abandoned by Contractor as a result of Contractor's failure to perform as set forth in SECTION 7.05(B), or for any other reason Contractor ceases operations under this Agreement or in the event Contractor delivers Residential Refuse to a facility other than the Designated Disposal Facility, Residential Recyclable Material or Scrap Metal to a facility other than the Designated Recycling Facility, or Yard Trim to a facility other than the Designated Yard Trim Facility, in addition to the other remedies provided herein, the County or its designee, including the Replacement Contractor, is hereby given the option to purchase or lease all or any part of the equipment owned or leased by Contractor currently being used in the performance of services under this Agreement. This especially includes, but is not restricted to, that equipment owned or leased by Contractor and listed on the yearly equipment schedule as required hereunder.

1. The purchase or lease price of such equipment shall be that to be mutually agreed upon by Contractor and the County or its designee, but in no event shall the County be required to pay more than the lower of the figures stated as: (a) the fair

market value determined from a current appraisal of similar equipment, (b) book depreciated value, or (c) the Contractor's current lease price.

2. The County shall have sixty (60) days from the time Contractor ceases operations or from the day this Agreement is terminated, as provided above, to exercise its option to purchase all or any part of Contractor's equipment, and the purchase or lease price for such equipment shall be withheld or placed in escrow at the County's option until it has been determined that all liens, attachments and obligations which might result in liens or attachments upon such equipment have been fully satisfied. If the County or its designee must pay any such obligations in order to secure equipment subject to this provision, such payments shall be charged against and paid from the purchase or lease price withheld or in escrow, and the escrow agent shall be authorized to make such payments by direction of the Contract Administrator only.
3. Upon notice given Contractor under this SECTION 7.05 that the County shall exercise or assign its rights under the option to purchase or lease any equipment, Contractor must give possession and control of such equipment to the County or its designee within seventy-two (72) hours. The County or its designee shall then become responsible for all care, maintenance and operation of such equipment until the purchase agreement has been made final, or the equipment is returned to Contractor, or other final disposition of the equipment has been made. The County or its designee shall make payment to Contractor within sixty (60) days of its possession or control of such equipment.

#### **SECTION 7.06. CHANGE OF LAW.**

- (A) The parties understand and agree that changes in law in the future, including, but not limited to, legislative, judicial or administrative changes, which mandate certain actions or programs

for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Agreement. Nothing contained in this Agreement shall require any party to perform any act or function contrary to law.

(B) To the extent that any current law or any law effective after execution of this Agreement is in conflict with, or requires changes in, the provisions of Collection Service or exclusive rights set out in this Agreement, the parties agree to enter into good-faith negotiations for the resolution of any such changes in this Agreement as a result of a change in law.

(C) Except as otherwise expressly provided herein, no remedy herein conferred upon any party is intended to be exclusive of any other remedy. Each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

#### **SECTION 7.07. ATTORNEYS' FEES.**

In the event of any dispute hereunder or of any action by any party to this Agreement to judicially interpret or enforce this Agreement or any provision hereof, or in any manner arising from this Agreement, the Contractor shall not be entitled to recover its costs, fees and expenses, including but not limited to, witness fees, expert fees, consultant fees, attorney, paralegal and legal assistant fees, costs and expenses and other professional fees, costs and expenses, whether suit be brought or not, and whether any settlement shall be entered in any declaratory action, at trial or on appeal.

#### **SECTION 7.08. AMENDMENTS AND WAIVERS.**

No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided. Each such amendment, supplement,

modification or waiver of this Agreement shall be filed with the Clerk of the Circuit Court of Montgomery County.

**SECTION 7.09. ASSIGNMENT AND SUBCONTRACT.**

No assignment or subcontract of this Agreement or any right occurring under this Agreement shall be made in whole or in part by Contractor without the express written consent of the Contract Administrator, which consent shall not be unreasonably withheld. Assignment shall include any transfer of 20% or more of stock or control in Contractor. The Contractor and subcontractor must enter into a written agreement which defines the responsibilities of both parties, and the terms and conditions of the agreement must coincide with those defined herein. The Contract Administrator shall have full discretion to approve or deny, with or without cause, any subcontract, any proposed assignment or assignment by Contractor. Any assignment or subcontract of this Agreement made by Contractor without the express written consent of the Contract Administrator shall be null and void and shall be grounds of the Contract Administrator to declare a default of this Agreement, and immediately terminate this Agreement by giving written notice to Contractor. Upon the date of such notice, this Agreement shall be deemed immediately terminated, and upon such termination all liability of the County under this Agreement to Contractor will cease and Contractor will be deemed to have failed to perform its obligations under this Agreement, and County shall have the right to require performance or indemnification from any surety and shall be free to negotiate with other Contractors or any other person or company to provide service to the Service Area. In the event of any assignment with the consent of County, the assignee shall fully assume all the liabilities of Contractor, provided, however, that such assignment and assumption shall not relieve Contractor of any liability or responsibility under this Agreement. The terms and conditions of this Agreement are the sole responsibility of the Contractor, and all subcontractors authorized by the County, working as agents of the Contractor, shall perform, provide service, and be subject to the same provisions of this Agreement as the Contractor. The performance of subcontractors shall be the responsibility of the

Contractor. Any fines or penalties imposed as a result of performance of the subcontractor will be imposed upon the Contractor. The use of subcontractors shall not relieve Contractor of any liability or responsibility under this Agreement.

**SECTION 7.10. PRIORITY OF DOCUMENTS.**

In the event of a conflict in the provisions of this Agreement, the following priority of documents shall control the resolution of such conflict.

- (A) This Agreement
- (B) General Conditions of Contract between County and Contractor
- (C) Mandatory Insurance Requirements
- (D) The County's Request for Proposal
- (E) The Service Area Map
- (F) Contractor's Proposal

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, Montgomery County, Maryland has caused this Agreement to be executed and delivered as of the day and year first above written.

(INSERT CONTRACTOR NAME)

MONTGOMERY COUNTY, MD

By: \_\_\_\_\_  
(Insert CEO) (Date)

By: \_\_\_\_\_  
David Dise, Director (Date)  
Department of General Services

I hereby affirm that the above named person is a corporate officer empowered to sign contractual agreement for the corporation

RECOMMENDED:

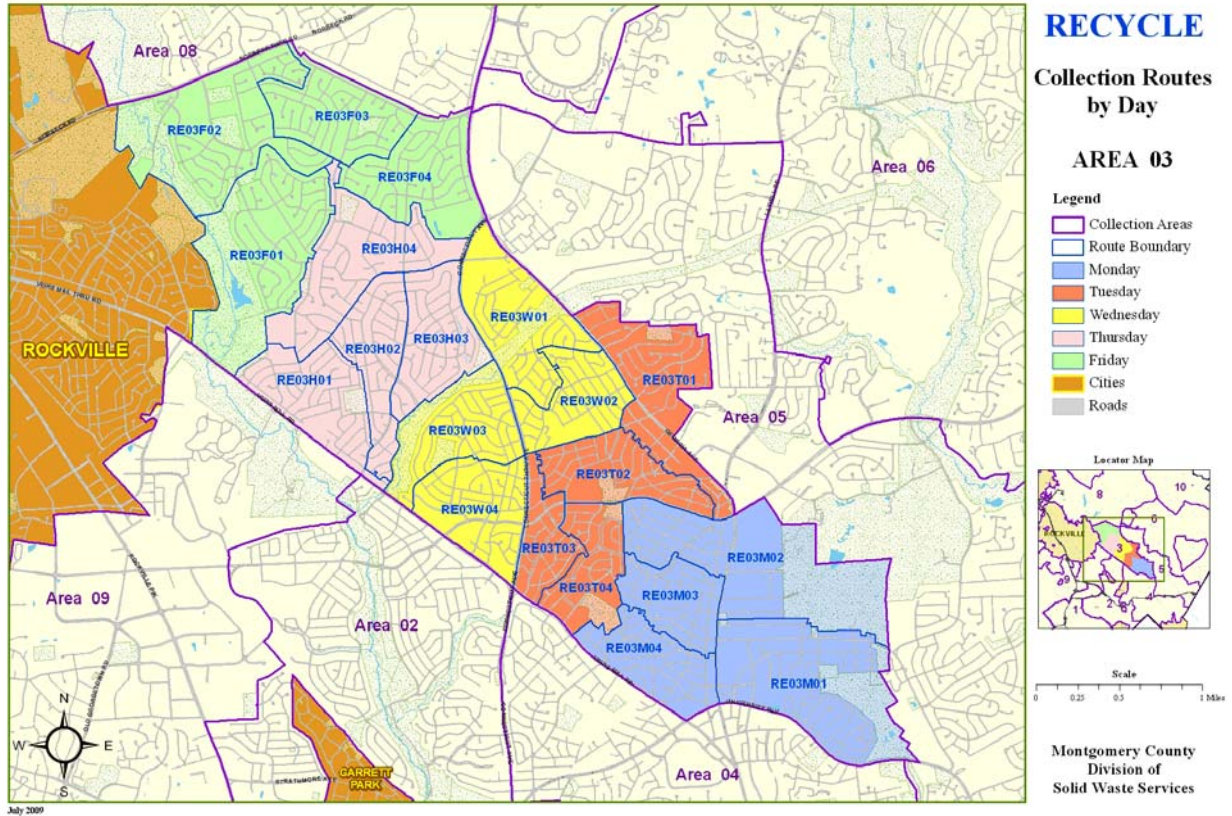
By: \_\_\_\_\_  
(Insert CFO) (Date)

By: \_\_\_\_\_  
Daniel E. Locke, Chief (Date)  
Division of Solid Waste Services  
Department of Environmental Protection

APPROVED AS TO FORM AND  
LEGALITY BY THE OFFICE OF  
THE COUNTY ATTORNEY:

By: \_\_\_\_\_  
Terrilyn E. Brooks (Date)  
Associate County Attorney

# **APPENDIX A** **DESCRIPTION OF SERVICE AREA** **Map of Service Area**



## **APPENDIX B**

**Insert Contractor's Performance Bond**



**APPENDIX C**  
**CONTRACTOR'S EQUIPMENT LIST**

(To be inserted upon receipt by the Contract Administrator  
thirty (30) days after execution of this Agreement).

**APPENDIX D**  
**CONTRACTOR'S COLLECTION SCHEDULE**

(To be inserted upon receipt by the Contract Administrator on April 4, 2012)

## **APPENDIX E**

### **GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR**

#### **1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION**

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first-tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first-tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first-tier subcontracts.

#### **2. AMERICANS WITH DISABILITIES ACT**

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, as amended, currently found at 42 U.S.C., § 12101, et seq.

#### **3. APPLICABLE LAWS**

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

Furthermore, by signing, or performing work under, a contract for services or arising from a grant award to participate in a County-funded program, contractor expressly certifies and agrees that it will not expend County funds to assist, promote, deter, or otherwise influence union activity or organizing, and that it will comply with the requirements of Montgomery County Code, Section 11B-33B.

#### **4. ASSIGNMENTS AND SUBCONTRACTS**

The contractor may not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by THE DIRECTOR, OFFICE OF PROCUREMENT, an assignment does not release the contractor from responsibility for

performance of this contract. Unless otherwise provided in the contract, the contractor may not

contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement.

## 5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

## 6. CONTRACT ADMINISTRATION

- A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:
- (1) serve as liaison between the County and Contractor;
  - (2) give direction to the Contractor to ensure satisfactory and complete performance;
  - (3) monitor and inspect the Contractor's performance to ensure acceptable timeliness and quality;
  - (4) serve as records custodian for this contract, including wage requirements;
  - (5) accept or reject the Contractor's performance;
  - (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement and to the County Attorney, as appropriate;
  - (7) prepare required reports;
  - (8) approve or reject invoices for payment;
  - (9) recommend contract modifications or terminations to the Director, Office of Procurement;
  - (10) issue notices to proceed; and
  - (11) monitor and verify compliance with any MFD Performance Plan.
- B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

## 7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the

contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

#### **8. DISPUTES**

Any dispute by Contractor arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may, with the contractor's consent, delegate this responsibility to another person (other than the contract administrator). A contractor must notify, in writing, the contract administrator of a claim, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the Contractor agrees to be made a party to any related dispute involving another contractor.

#### **9. DOCUMENTS, MATERIALS AND DATA**

All documents, materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The Contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

#### **10. DURATION OF OBLIGATION**

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

#### **11. ENTIRE AGREEMENT**

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

## 12. ETHICS REQUIREMENTS/ POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b)
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with County Code Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13.

In addition, the contractor must comply with the political contribution reporting requirements currently codified under Title 14 of the Election Law, Annotated Code of Maryland.

## 13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.
- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

#### 14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

#### 15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

#### 16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

#### 17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

#### 18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

#### 19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

#### 20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

#### 21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(ies) licensed or qualified to do business in the State of Maryland, and acceptable to the County's Division of Risk Management. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Forty-five days written notice to the County of cancellation or material change in any of the policies is required. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. The Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

#### 22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - FRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

#### 23. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.



#### 24. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B-33 and Section 27-19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

#### 25. PAYMENTS

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

# TABLE A. - INSURANCE REQUIREMENTS

(See Paragraph #21 Under the General Conditions of Contract Between County and Contractor)

<u>CONTRACT DOLLAR VALUES (IN \$1,000's)</u>				
	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily injury by				
Accident (each)	100	100	100	See
Disease (policy limits)	500	500	50	
Attachment Disease (each employee)	100	100	100	
Commercial General Liability	300	500	1,000	See
Attachment minimum combined single limit				
for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors				
Minimum Automobile Liability (including owned, hired and non-owned automobiles)				
Bodily Injury				
each person	100	250	500	See
each occurrence	300	500	1,000	
Attachment				
Property Damage				
each occurrence	300	300	300	
Professional Liability*	250	500	1,000	See
for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000				Attachment

## Certificate Holder

Montgomery County Maryland (Contract #)  
Office of Procurement  
Rockville Center  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850-4166

\*Professional services contracts only

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**TABLE B. - INSURANCE REQUIREMENTS**  
**(See Paragraph #21 Under the General Conditions of Contract Between County and Contractor)**

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder  
Montgomery County Maryland (Contract # )  
Office of Procurement  
Rockville Center  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850-4166

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26. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

27. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

28. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

29. TIME

Time is of the essence.

30. WORK UNDER THE CONTRACT

Work may not commence under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

**THIS FORM MAY NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.**

## APPENDIX F

### MANDATORY INSURANCE REQUIREMENTS

#### ***Residential Collection Service Agreement***

Prior to the execution of the contract by the County, the proposed awardee must obtain at their own cost and expense the following insurance with an insurance company/companies licensed to do business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/Contractor shall provide a copy of the insurance policies. The Contractor's insurance shall be primary.

#### Commercial General Liability

A minimum limit of liability of ***five million dollars (\$5,000,000)***, combined single limit, for bodily injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors
- Products and Completed Operations

#### Automobile Liability Coverage

A minimum limit of liability of ***five million dollars (\$5,000,000)*** combined single limit, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles

#### Workers' Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$1,000,000 each accident***
- Bodily Injury by Disease - \$1,000,000 policy limits***
- Bodily Injury by Disease - \$1,000,000 each employee***

#### Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees must be named as an additional insured on Contractor's Commercial and Excess/Umbrella Insurance for liability arising out of contractor's products, goods and services provided under this contract.

#### Policy Cancellation

Forty-five (45) days written notice of cancellation or material change of any of the policies is required.

#### Certificate Holder

Montgomery County, Maryland  
Office of Procurement / Robert Norris  
255 Rockville Pike, Suite 180  
Rockville, Maryland 20850